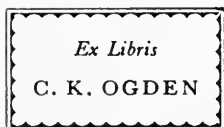






THE LIBRARY  
OF  
THE UNIVERSITY  
OF CALIFORNIA  
RIVERSIDE



Digitized by the Internet Archive  
in 2007 with funding from  
Microsoft Corporation





**FORTY YEARS AT  
THE CRIMINAL BAR**







*Edmund D. Parcell*

# **FORTY YEARS AT THE CRIMINAL BAR**

**EXPERIENCES AND IMPRESSIONS**

BY

**EDMUND D. PURCELL**

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW

**LONDON**

**T. FISHER UNWIN LTD.**

**ADELPHI TERRACE**

KD  
P87

*First published in 1916*

*(All rights reserved)*

# CONTENTS

	PAGE
INTRODUCTION . . . . .	9

## CHAPTER I

HOW I BECAME A DEFENDER OF THE ACCUSED . . . . .	24
--	----

## CHAPTER II

CHANGES I HAVE WITNESSED . . . . .	39
1. In Trials . . . . .	39
2. Criminal Punishment . . . . .	49

## CHAPTER III

MR. JUSTICE HAWKINS, MR. JUSTICE DAY, AND MR. JUSTICE STEPHEN . . . . .	59
--	----

## CHAPTER IV

CAREFULLY PLANNED CRIMES . . . . .	69
1. A Great Diamond Robbery . . . . .	69
2. An Ingenious Commercial Fraud . . . . .	80
3. Stealing a Brougham of Jewellery . . . . .	85
4. A Concerted Street Robbery . . . . .	91
5. A City Burglary that was Stopped . . . . .	98

## CHAPTER V

SIR THOMAS CHAMBERS AND SIR CHARLES HALL . . . . .	98
--	----

## CHAPTER VI

	PAGE
SUNDRY EXPERIENCES AND IMPRESSIONS . . .	114

## CHAPTER VII

THREE REMARKABLE WOMEN . . .	148
1. Key Register Frauds . . .	148
2. Chicago May's Vengeance . . .	154
3. The Terror of London Jewellers . . .	165

## CHAPTER VIII

SIR PETER EDLIN AND HIS DEPUTIES . . .	172
--	-----

## CHAPTER IX

GLOVE FIGHTING AND PRIZE FIGHTING . . .	200
---	-----

## CHAPTER X

SOME EXCEPTIONAL JURIES . . .	209
1. A Compassionate Jury . . .	211
2. An Incredulous Jury . . .	215
3. A Sympathetic Jury . . .	218
4. A Dull Jury . . .	220
5. A Turbulent Jury . . .	222

## CHAPTER XI

SIR WILLIAM CHARLEY . . .	229
---------------------------	-----

## CHAPTER XII

PERSISTENT OFFENDERS . . .	239
1. A Capitalist and Organizer . . .	239
2. A Humble Operator . . .	244
3. A Persistent Family . . .	248



# CONTENTS

7

## CHAPTER XIII

	PAGE
MR. WILLIAM ROBERT McCONNELL . . . . .	256

## CHAPTER XIV

SOME ALIBIS GOOD AND OTHERWISE . . . . .	274
1. Alibis Generally . . . . .	274
2. An Alibi where the Witnesses were but the Accused was not . . . . .	277
3. A Succession of Alibis . . . . .	279
4. A Good Alibi . . . . .	288
5. A Bad Alibi . . . . .	290
6. A Bad Alibi Secures a Royal Pardon . . . . .	292
7. A True Alibi that was Disbelieved . . . . .	294

## CHAPTER XV

MR. COMMISSIONER KERR . . . . .	298
---------------------------------	-----

## CHAPTER XVI

RECEIVERS OF STOLEN PROPERTY . . . . .	310
1. The Advantage of Intelligence . . . . .	311
2. The Salvation of Stupidity . . . . .	313

## CHAPTER XVII

SIR RALPH LITTLER . . . . .	315
-----------------------------	-----

## CHAPTER XVIII

SOME POLICE-COURT EXPERIENCES . . . . .	326
---	-----

## CHAPTER XIX

SOME EXPRESSIONS OF GRATITUDE . . . . .	341
---	-----



# FORTY YEARS AT THE CRIMINAL BAR

## INTRODUCTION

CHANGES in crimes, in criminals, and in criminal trials and punishments must necessarily arise; the human element must vary with times and circumstances. During the forty years of my experience as a barrister practising in the Criminal Courts I have witnessed many changes.

The changes in crime and in criminals may be summed up in decreased violence, increased subtilty, and greater combination. Robberies with cruel and sometimes atrocious violence, at one period frequent, are now rare. The only form of brutal crime that still occurs is the wholly gratuitous assaults upon police officers, often quite unconnected with any other crime. Drink accounts for the majority of these assaults. The shooting burglar, with revolver strapped to his wrist, quick to shoot at the householder or the constable who inter-

rupted him, often came before Mr. Justice Hawkins or Mr. Justice Day, to receive at least fifteen years' penal servitude; for many years he has not been encountered. But the jemmy in the burglar's hand is still occasionally used on the plucky constable who, alone, armed only with his truncheon, in a rural district in the dead of night, confronts the burglar at work. Yet this form of depredation has largely been abandoned for the safer, easier, and more profitable enterprise of breaking into houses left unattended in daytime.

Burglary is one of the crimes that displays decreased violence and increased cunning. The burglar is no longer the uncouth ruffian with a jemmy, a dark lantern, and a piece of coal in his pocket for luck; he is a skilled artisan carrying electric torches and an array of modern implements equal to any difficulty, and he scorns a mascot. His enterprises are the result of deliberate design and careful combination. His aim is the warehouse of the City merchant or the shop of the West End jeweller. He selects a Saturday evening, effects an entry, and carefully replaces the outer fastenings or wedges up the forced door to avert the suspicion of the passing patrol. If he has for convenience entered an adjoining house, his powerful instruments soon cut

through walls and doors ; if he enters direct, he has a handy explosive for the safe. At leisure, before Monday, the booty is judiciously selected ; if it be bulky, like furs or cloth or silk, it is packed in sacks ; on Monday morning a carrier's cart drives up and in businesslike fashion the plunder is carried off to the receiver. If the jeweller's shop be protected by a Judas window, a skilfully constructed dummy replaces the genuine safe to satisfy the constable who periodically peeps in ; the real safe is conveniently forced and ransacked out of his view. These are not imaginary exploits but real cases in which I have been counsel.

The outstanding characteristic of the modern burglar is the completeness of his mechanical equipment and his skill in using it. He turns to his account any new tool ; he has recently been found provided with a very powerful instrument, manufactured for legitimate purposes, which can easily cut through an iron bar. It is a cutter with arms nearly three feet long, of solid construction and powerful leverage.

But the modern burglar, fortunately for justice, must have confederates, and their treachery or their blunder is often the cause of his capture. In the old days the single-handed operator, though his range was narrower,

often enjoyed a long career of successful crime; he could only be the victim of accident. One old man was proved to have been living in comfort for years on the proceeds of single-handed crime. His age, his respectable dress and demeanour protected him from suspicion, but one night an observant detective chanced to notice him loitering suspiciously, and in spite of his appearance arrested him. He was carrying a serviceable jemmy in a specially constructed long pocket. Nothing could be ascertained about him, no officer knew him, and he maintained obstinate silence about himself. After a remand he was sent to prison for three months. The officer who arrested him noticed two women in court interested in his case. They were followed to a good flat in a respectable neighbourhood; one was the charwoman who looked after the flat where the man lived alone. She readily explained that he had sent for her to give directions about the flat during his enforced absence. When the flat was searched its cupboards were found stocked with a large collection of jewellery and plate, some of it the proceeds of long-forgotten burglaries. It was his store for the approaching day when he would be past his work. Its discovery cost him seven years' penal servitude.

While the burglar has become a skilled mechanic, the well-educated man continues his business of fraud, but with immensely improved methods. The "Long Firm" has given way to the "Bucket Shop." It is easier to pocket money sent as cover for Stock Exchange operations that are to yield large weekly profits to the speculator, than to dispose of bulky merchandise procured on the strength of fictitious references and showy order forms. But the "Long Firm" fraud and the "Bucket Shop" fraud only appear in the Criminal Courts at long intervals; not because they are not enjoying a prosperous existence, but from the difficulty of prosecution. Merchants who have been easily duped of their wares, speculators who have been prodigal in cover, shun the publicity of their folly. And the police who investigate such cases do not take readily to the immense labour the investigation requires. Sometimes a detective inspector appears with a huge appetite for such inquiries, and then there is trouble for the cheats; when his appetite is sated they enjoy a spell of immunity.

The collection of subscriptions for the Thames Watermen's Regatta, which never takes place, goes on as merrily as it did in the days when Common Serjeant Charley thought he had

killed it. But pre-eminent in vitality is the confidence trick ; its performers repeat almost verbatim the old patter. Americans, Colonials, and country folk still readily show their confidence in the man whose wealthy uncle has left his vast fortune to be distributed among the deserving, often including the Pope as specially deserving, by entrusting him with their well-filled pocket-books. So numerous are complaints of substantial losses that at certain seasons detectives are specially on the watch in the usual hunting-grounds of the fraternity. The tricksters when they appear in the dock are usually very old men whose manner and appearance would seem to repel confidence. Recently artists from Australia introduced some novelties, and by bogus bets on horses running into many thousands of pounds netted £2,750 in hard cash from a Scotsman, a merchant in China, and only an accident prevented their obtaining £3,500 more.

The grimy-looking, coatless labourer who suddenly stooped in front of one in some busy thoroughfare and picked up what looked like a gold ring or pin, and rubbing off the mud on his sleeve, offered it for five shillings, seems to have been supplanted by the vendor of a modern invention ; it is a fountain pen, stamped ten-and-sixpence ; and the aproned



workman, who buys it at a few shillings the gross, tenders it to the passer-by at half-a-crown, obscurely hinting as a reason for its cheapness that he has come by it not altogether honestly.

Watch-stealing, which used to form a very large proportion of criminal calendars, now occupies a very small space. Watch-stealing still goes on, as I have personal reason to know, but it would seem that by a sort of survival of the fittest only skilled operators remain and escape detection while the bunglers who were caught have betaken themselves to the easier task of riding off with bicycles left unattended. Bicycle thefts have become as numerous as watch thefts were in later Victorian days; the skilled hand who renumbered watches and exchanged works and cases is succeeded by the cycle-fitter who can so deftly exchange parts and alter transfers as to defy identification.

It is in combination that modern crime shows its greatest change. It is not now confined to educated men contemplating some great fraud. Convicted criminals of little education are often found to have planned together some dishonest exploit of no extraordinary character and to have devised cunning methods of effecting it, of securing their escape, and even of defeating

justice if they should be caught. Several old convicts watched the movements of a clerk who every week fetched from the bank cash for wages. One day near a subway they clapped a plaster of brown paper and treacle over his face, snatched the bag, and bolted down the subway. There confederates were waiting with a chain and snap padlock to secure the gate against pursuers. At the other end of the subway a taxicab was ready to hurry them away to safety. Then they showed themselves to different people, who in the hour of need gave evidence of an alibi that baffled one jury. The plunder amounted to only forty pounds' worth of silver. Old-fashioned thieves would have hustled the clerk—not too gently—and bolted with the bag without troubling about treacle plaster or subway or padlock or taxicab or even alibi.

But the clever men who at all times have shown skill in combination now surpass their predecessors in the perfection of their devices. Several men, one of whom was a master in penmanship, obtained by forgeries several thousands of pounds. Wherever they lived or wherever they appeared they all gave the same name; no two sets of witnesses could identify the same man, as each performed a separate part. By genuine transactions of pur-

chase or sale they procured cheques from suitable victims. Then they opened accounts at the victims' banks with genuine cheques. Provided with cheque-books, the penman imitated the victim's signature to a cheque usually running into hundreds. These forgeries were paid into one or other of their accounts and in many cases duly cleared and promptly drawn out. Only two men were brought to justice and none of the plunder recovered.

There are occasionally real novelties in crime. I defended a registrar of births, marriages, and deaths who, to add to the emoluments of his office, registered, wholesale, babies that had never been born at addresses of houses occupied by very old couples or maiden ladies. This choice of house may have been a touch of quiet humour. The fraud was wholesale, extending to the reckless forgery of doctors' signatures to vaccination certificates for the imaginary infants. It was the chance recognition of one of these forgeries that brought the accused into the dock.

A man who carried on a profitable business in the sale for a few shillings of diamond rings and pins avoided a conviction by fastening into the articles of jewellery minute shavings of real diamonds.

A picture-dealer procured a number of cheap

daubs and addressed them to fictitious persons at railway cloak-rooms in different counties. Actions were then brought against these fictitious persons and, by perjured affidavits, service of the writs was proved and judgment in default of appearance duly signed. Then the sheriffs of the different counties were directed to seize and sell the pictures lying at the cloak-rooms. The auction was freely advertised as a sale of valuable pictures seized under execution, and the originator of the scheme reaped a substantial reward.

The owner of a steam tug economized his coaling expenses by systematically pilfering coal from barges he passed on the river. Unluckily for him, there was an athletic police inspector who got together a racing crew of policemen. The tug owner was unconscious that the racing boat that passed and repassed him was manned by police officers who, combining duty with pleasure, had detected his method of filling his coal-bunker. As it happened, however, the Grand Jury, for some reason, ignored the bill against him and saved me from a somewhat difficult defence.

Larceny of water is not so common as larceny of gas. A builder had apparently been mixing his mortar with water from a well, but its spring ceased to flow when a water

company's inspector, finding in the well a pipe connected with the watermain, severed the connection. To keep up the character of the well, a new connection was made, but this time with the inspection chamber of the drain. This in the end did not defeat justice.

A crime, not new but infrequent, is house-stealing. In my earliest experience of the crime the perpetrators completely demolished a country house standing in its own grounds, in what was then quite a rural district of Middlesex. They sold the metals and the bricks, leaving nothing but a heap of rubbish to startle the agent's representative when he came with a prospective tenant to view the house. Recently I defended one of these specialists in crime; he had already undergone five years' penal servitude for the same offence. This time the metals had been stripped from the house, and he was disturbed while pulling up the floor-boards; he took a flying leap through the gap in the floors, injured himself, and was captured. The police proved by substantial evidence that for four years he had been leading a perfectly honest and laborious life; he was properly given another opportunity of going straight, but this time it was a failure. Within a month he was found directing a gang of labourers loading a steam

trolly with metals stripped from three empty houses in one of the busiest streets of London. It was no other than the owner of the houses, a shopkeeper in the same street, who caught them at work. This time another five years' penal servitude was his inevitable fate.

Far greater than the change in crimes and criminals has been the change in the spirit and methods of criminal trials and criminal punishments. Principles and maxims that had become torpid and lifeless have been restored to vitality and influence; to complete and strengthen the guarantee they afford of a fair trial for the accused new rules of prudence and discretion have been called into existence; modifications have been made in rules of evidence and usages in procedure wherever they hampered or prejudiced the accused; and the judicial summing-up must give correct and sufficient directions to the jury, and must as adequately set forth the case for the defence as the case for the prosecution. In criminal punishments quite new ideas have been adopted by judges as just and expedient in the public interest. Uniform severity has given place to discriminating leniency.

Some judges are often specially denounced for the apparent ferocity of their sentences as if they were personally to blame for such

severity. Nothing could be more unjust and erroneous ; some judges, it is true, responded more completely to the temper of the time, but severity was encouraged and enforced by legislation and supported and approved by professional as well as by general public opinion. Here and there, men like C. H. Hopwood, the Recorder of Liverpool, preached the advantages of leniency as a means of reformation, but they were ridiculed as foolish and sentimental faddists. Two Acts of Parliament with an interval of seven years may be cited as specimens of the legislative encouragement of severity. In 1864 the minimum sentence of penal servitude was raised from three to five years, and it was made seven years after a previous conviction for felony ; these remained the minima until 1891. The Prevention of Crimes Act, 1871, instituted in police supervision a stringent code of regulations for some criminals who had been twice convicted, created new crimes for others with a summary penalty of twelve months' imprisonment without any right to trial by jury, and seriously extended the admissibility of evidence against alleged receivers of stolen property. Some of these provisions had little other effect than to prevent the released convict from earning an honest livelihood ; certain

judges in that view never ordered police supervision to follow their sentences.

In the following pages I give the stories of some of my cases and my impressions of the different judges who tried them. They illustrate, though not written for any such purpose, the change in the spirit of criminal trials and in the disposition of criminal judges, and they show the merits and the demerits of trial by jury. They are not mere recollections, but revision of notes written while the facts and circumstances were alive in my mind, and my nerves still tingling with the excitement of the contest. Cases in which accused, presumably innocent persons, were easily acquitted I rarely took the trouble to write. I preferred the hard-fought wins against serious evidence.

Moral and law-abiding citizens may deplore the escape of wrongdoers from the gaol they merited, and censure me for the part that I played in bringing about that supposed defeat of justice. They are altogether wrong. The Criminal Courts are courts of law, not of morals. The accused must be tried according to law. Whatever the suspicion may be, or indeed, whatever the evidence may be, it is the safeguard of innocence that the accused should be acquitted unless the jury are satisfied



beyond all reasonable doubt of his guilt. The evidence must be consistent only with guilt, and inconsistent with innocence. The tribunal appointed by law to pronounce a verdict of guilty is the jury. It is a human tribunal and therefore not infallible. Once a deaf juror tried three cases without hearing a word of the evidence, merely writing down his verdict, which somehow happened to be the verdict of the others, and the judge, Mr. Commissioner Kerr, when it was discovered, said, had there been a conviction he would have directed a retrial. The jury may be captured by the advocate; it may even be wanting in honesty and careless of its oath; some of its members may be old convicts; but it alone can pronounce a verdict of guilty or not guilty. The advocate would not be discharging his professional duty if he did not endeavour by all the legitimate means in his power to capture the judgment of that tribunal. If he succeeds the accused has been acquitted according to law, and no one, not even the judge himself, has any right to censure the result.

## CHAPTER I

### HOW I BECAME A DEFENDER OF THE ACCUSED

I CAME to the Bar quite by accident. I chanced to come across Mr. Serjeant Cox's book, "The Advocate"; it fascinated me, and I read it at one sitting. I decided that the Bar was the profession for me; the decision was all the easier because I knew absolutely nothing of the Bar. I had, it is true, two uncles who, having been trained at great expense for the Bar, had given it up in disgust. They earnestly advised me to abandon the mad idea. I persisted. In time I came to form an opinion about the Bar as a profession which I once had occasion to communicate to another. At one of the dinners Sir William Charley, the Common Serjeant, used to give to the leading practitioners at the Central Criminal Court, he introduced to me a young friend recently called, who was to sit next to me that I might give him useful hints. I forget what useful hints I gave him, but I remember saying that

the Bar is a grand profession for a desperate man. I omitted an important qualification, namely, that the measure of his success is his capacity. The capacity of that young man was such that he has since attained to one of the highest judicial positions in the State. I succeeded in getting practice as a defender of accused persons. But that also was an accident. When I first donned my wig and gown I had not the faintest notion where or how I was to get business. One night, dining in Middle Temple Hall, Richard Ringwood, now a Bencher of the Inn, asked me why I did not go to the Middlesex Sessions and get a court brief. I had never heard of Middlesex Sessions and did not know what a court brief was. The next week I went to the Middlesex Sessions and thence easily drifted into the Central Criminal Court.

The characteristics prevailing among criminal practitioners were very different from what they are now. The coarseness, vulgarity, and violence that made "Old Bailey barrister" an opprobrious description were fast dying out, but were not extinct. The older generation persisted in their bad old ways, not by any means mollified by finding their business passing to younger men of a different type.

The principal defending counsel among the

new generation were Montagu Williams, Douglas Straight, and Warner Sleigh, the son of Serjeant Sleigh. They had many more briefs than they could attend to or cared to attend to ; there were more congenial scenes to which they were quick to escape ; they made a little show in the morning and then abandoned their briefs to their " devils." Drudgery, now inevitable, was not at all to their taste. I am sure Montagu Williams never drew an indictment in his life. When his friend Sir John Holker nominated him junior counsel to the Treasury at the Central Criminal Court in succession to Douglas Straight on his appointment to an Indian judgeship, his function was to draw all the Treasury indictments ; they were, in fact, drawn by Mr. Henry Read, the respected and experienced Clerk of Indictments. It was amusing to see the drafts brought to him for approval ; without even opening them he endorsed them " Approved—Montagu Williams " ; not, indeed, that Mr. Read's indictments were likely to be at fault. Douglas Straight could draw his indictments, but I doubt if he devoted more than odd moments in court or in the robing-room to the irksome task ; there were industrious experts in his chambers who probably relieved him of the work. But no one in those days, not even Besley, who was a worker, was armed

with the elaborate file of notes from which prosecuting counsel now open their cases, nor did they take copious notes of the cross-examination on stripping pads as is now some men's practice. Nor were briefs scored with pencils of different colour, to emphasize the important points one way or the other ; nor did any man have a little armoury of coloured pencils by his side for use during the trial. If we did not make occasional use of the court quill, we relied on a well-worn bit of black-lead pencil. Montagu Williams's briefs were usually, as I know, quite innocent of any mark whatever. Besley used to scrawl in violet ink on the back page of his brief at all sorts of angles his material facts. But opening speeches in those days were not measured by the hour.

It was reputed to have been said of Montagu Williams by Sir John Holker that he was the best "half-miler" in England. Given a few facts, no business books, and no law, Montagu Williams had no rival in winning verdicts. He had the prevailing fondness for noise ; he yelled and shouted and beat the desk resounding thumps and had an odd habit of jumping little jumps while he spoke ; but he seized the jury and held them. His judgment of the right line of defence and of the disposition of the jury was rarely wrong. It was

really tragic when, practically at the height of his business, an inevitable operation in the throat robbed him of his voice, leaving him with only a hoarse whisper. I held a great many briefs for him and for Warner Sleigh and a fair number for Douglas Straight. Thorne Cole was a remarkable man, peculiarly the poor prisoner's friend, and at one period in great request. His strength was not so much in winning acquittals as in giving his clients as it used to be described a "glorious funeral." He was full of noise and declamation ; shouted and beat the desk with a vigour that made poor Edlin start and tremble with dread of what was coming next. His powers of vituperation, often quite original and picturesque, relieved his speeches from the monotony of mere abuse. But his efforts were exhausting, and the recuperative draughts of stout periodically taken during a case from his store in the robing-room finally destroyed his health. One morning Douglas Straight happened to meet the Bar lunch caterer bringing in a big basket of bottles of stout. "Look," he cried, "at Thorney's Store !" To-day, I might add, the Sessions Bar is catered for by the A.B.C. Company, a sufficient indication of their temperate tastes.

As a rule the cases counsel handed over to

their "devils" were too hopeless for the beneficiary to conduct himself. I learned in this hard school to put a good face on desperate combinations of indisputable facts. At length no evidence frightened me. I won some startling verdicts, and began the gratifying experience of seeing the strained and anxious face of the accused relax into a smile of relief and satisfaction when a verdict of not guilty saved him from that term of seven years' penal servitude to be followed by seven years' police supervision so common in those days of heavy sentences.

But the lot of a "devil" was not always a happy one; I have had to suffer many painful mortifications. Once I went to Brighton Petty Sessions for Warner Sleigh, who was instructed by a prominent Brighton solicitor to defend a boarding-house keeper for selling drink to his guests without a licence. The solicitor was at no pains to conceal his disgust when he saw me arrive in place of Warner Sleigh. He was himself representing another boarding-house keeper on a similar summons, and he adroitly arranged that his case should be taken first as Sleigh had not arrived. He was a smart and showy advocate, and he succeeded in so discrediting the excise witnesses in his case that the Bench dismissed the

summons. Thereupon the solicitor for the excise withdrew the summons in Warner Sleigh's case because it depended on the same witnesses. Then the solicitor smuggled me out through a side door and packed me off to the station without his clients discovering that Warner Sleigh, for whom they had paid a substantial fee, had deserted them. Warner Sleigh had a great reputation, and in licensing business was one of the publican's pets; but his advocacy was largely noise—if, at the Old Bailey, one court was disturbed by loud talking outside, it was usually explained that it was Warner Sleigh "tearing the rafters" in an adjoining court—and his cross-examination consisted in a multiplicity of questions that often clinched the guilt of the accused. He had a voice high in tone upon which he rarely put restraint; he seemed to enjoy its loudness and often shouted particular words merely for the sake of the noise rather than for emphasis.

A more mortifying experience was when I went to Aldershot County Court to represent Wildey Wright. Those who knew Wildey Wright at his best can realize how inadequately any one could represent him, and I had been called little more than a year. It was in a case that had excited great local feeling, both



personal and political. I read in the train going down columns about it in the local newspapers and the anticipations of what would happen at the great trial. It did not increase my courage. It was a bitter November day, with driving snow, and, having gone to the wrong station, I had to cross the common in an open fly. There was a large crowd outside the court waiting to see Wildey Wright; they made a lane for me to walk through and I heard clear murmurings of disappointment. Once when Wildey Wright represented the temperance party at a licensing sessions he drove up to the court preceded by a wagonette with the local teetotallers' brass band in full blast. Not such was my arrival. The reception of the solicitor, a local celebrity, was contemptuously frigid. My only consolation was that counsel on the other side was a friend, G. E. Lyon, but the judge was Mr. Stonor, who was never considerate to novices. Cold, hungry, for I had had to start very early, and discouraged by the excited audience, I made a sorry show. The judge gave judgment against me. As I left the court the solicitor instructing Lyon asked me to join Lyon at dinner at his house, but, though almost starving, I felt too humiliated to accept, though I had to wait nearly an hour in a bleak station for a train.

The report of that case in the local paper filled no less than five columns, but it is not studded with the "cheers" and "laughter" Wildey Wright's customary sallies would have produced. Years after I was once opposed to Wildey Wright at a police-court when several afternoon sittings were given up to us. I used to return to chambers really stunned by the deafening voice and roaring laugh of my sten-torian but thoroughly good-natured opponent.

Another barrister for whom I held briefs, more from his own failing health than from excess of work, was Alfred Harmsworth. Once I met him on the cliff at Ramsgate walking behind a column of at least ten rosy-checked boys. "Is that your school?" I asked. "Yes," was his cheery reply, "all my own." I had no suspicion that I was looking on a collection of embryo millionaires, peers, and Members of Parliament destined to exercise great influence on public life.

Gradually with briefs held for others came briefs for myself, and I ceased to be a "devil."

There were, when I first visited the Criminal Courts, four remarkable old men at that time more often seen and heard in the robing-rooms than in the courts. One was William Cooper, the leader by seniority of the Middlesex Bar, and counsel for the Treasury; another was

Lilley, the leader of the Surrey Bar. Cooper was a scholar and widely read man who contrived to introduce into his opening speeches in small cases a wild diversity of allusions and quotations, and in the robing-room, standing with his back to the fireplace—he was a fine, tall man—he presided at conversational discussions lasting for hours, ranging in character from sheer imbecility to profanity and obscenity, with occasional excursions into politics and law, and characterized by language of striking vigour and personality. Lilley was quite a different man. His foibles were many but harmless. Though very old, he refused to admit it. He banished the traces of time: his whiskers, of the Palmerston type, were a dull black like the heavy moustache which he wore with shaven chin, but the skin was deeply stained by the dye; he wore a raven black wig, and his rapid exchange of the civilian wig for the forensic wig was a mysterious performance worthy of a conjurer; no one had time to see the bald head and few suspected what he was doing in a dark corner of the robing-room. His speeches for the defence—for he still had briefs—were very long, quaint in their eloquence and marvellous in their energy. Once he came to Clerkenwell to defend an old client. In his well-worn leather bag

he had three bottles of champagne; he sent for glasses and made the juniors in the robing-room drink his health as long as the wine went round. Such an incident may seem to-day, incredible. Age and shrinking business had not converted him into a surly bear like another of the group; he was popular with every one. When he died a considerable sum in notes and coin was found secreted in odd places, and also several cheques he had hidden and forgotten. Ribton was then a wreck, but the tradition was that he once had a large business. He had a rough manner; I saw a lady break down and burst into tears under his examination in chief. He must have been an eloquent speaker in his prime, for I heard him in small prosecutions indulge in tirades which proved the copiousness of his vocabulary. The fourth of the group was W. J. Abram, chiefly remarkable for his kindness of heart and goodness of temper; he passed most of the day in the robing-room provoking interminable discussions and drawing down upon his own head much merciless denunciation. Four men like these can never be seen or heard again.

Richard Harris revelled, by way of diversion, at kindling these robing-room discussions; he was, however, a powerful defender of

prisoners. He had a splendid voice, a rollicking, jovial demeanour, and great success with a jury, but he had a bad temper. He quarrelled with Edlin and indignantly retired from Criminal work, devoting himself to civil business, ultimately taking silk and becoming the depositary of the reminiscences of Mr. Justice Hawkins, which he published in two substantial volumes.

Brindley, afterwards Recorder of Hanley, was a singular defender of prisoners ; he had a dull, unintelligent face and a confusing style of speech, and his one defence, often successful, was that he could not understand the witnesses and could not understand the case, and having by obtuse questions puzzled the witnesses and confused the issue, he asked the jury in a discursive, pointless speech if they could understand it sufficiently to convict the prisoner of the serious charge against him.

A very odd personage was John Cook. He had some civil business, but rarely had anything but court briefs at Sessions. He was a shrivelled, diminutive little man with a thin, squeaky voice, and was the butt alike of his contemporaries and his juniors, taking their gibes with delightful good-humour. He became a Roman Catholic and through the influence of his co-religionists received a Colonial appoint-

ment. For some time he was successful, was promoted to a better post and received the honour of knighthood. But though when at Sessions a man of exceptionally 'abstemious life, looking too frail for meat or drink, he suddenly contracted habits that led to scandals, a public inquiry, and his enforced retirement. To his Sessions associates it was an incredible change, and when I saw him on his return it was still difficult to believe he could have succumbed to such weakness. Every one liked the poor fellow, and had rejoiced at an appointment which would have secured him comfort for the rest of his life. It is not the only case I have known in which small Colonial appointments for unsuccessful men have been their ruin instead of their salvation.

Another singular man was Hardinge Giffard, half-brother of the Lord Chancellor. He could scarcely conduct a simple court prosecution, and I was glad when I found him opposed to me. At length he was translated into a registrar in bankruptcy at £1,200 a year, and from a pinched, querulous creature, so terrified by draughts that he wore an overcoat under his gown and kept special watch on a Bench door that let in a current of air, and angrily required it to be shut, he became a rotund, well-fed, genial personage full of

quips and cranks, and his long, flowing beard, shiny and silky, was no longer a tangled, unkempt mass.

A laborious, industrious man was Moody, who won distinction in his defence of the brother of Wainwright the murderer. It was thought that it would bring him an accession of merited business, but nothing came of it, and a stroke of paralysis left him a hopeless cripple till death released him. He was one of the two or three men who, in contrast with others, robbed themselves of strength and vitality by their extremely abstemious habits. He drank nothing and ate little ; few men can stand the atmosphere and the work of the Criminal Courts on a lunch of a cup of coffee and a roll.

F. H. Lewis did capably solid work for his brother's firm, but preferred chess-playing and smoking big cigars ; the big cigars must have shortened his life ; I rarely saw him without one.

Of quite different calibre was Besley, who practically monopolized the big private prosecutions, rarely touching defences. Montagu Williams used to denounce him as reducing professional work to a trade. No brief was ever refused, and if Besley would not or could not attend to it himself there were in his

chambers several efficient and capable men—they were called the Long Firm—with whom his clients would be quite satisfied. One remarkable man, who succeeded in practising for years without being an admitted solicitor, used cheerfully to say if he could not get the cauliflower he was quite content with the stalk. Besley, though a hard-working man and a sound lawyer, was a poor speaker and easily irritated ; I used to find the policy of irritating my opponent very useful when defending against him. He did much useful work in organizing the Bar at the Sessions and the Central Criminal Court and largely contributed to the improved tone that now prevails, but it is doubtful if some of his schemes, promoted in the interests of juniors, have realized his expectations ; he did not contemplate juniors attending the courts coming to be counted by the hundred.



## CHAPTER II

### CHANGES I HAVE WITNESSED

#### 1. IN TRIALS

GRADUALLY but completely a revolution has taken place in criminal trials. A new spirit now prevails in Criminal Courts; an anxiety to grasp and expound the accused's defence has taken the place of the confident incredulity of his having a defence at all. Weak or strong, the defence receives as full justice as the prosecution. A summing-up is deemed defective, a violation, as Lord Alverstone put it, of a paramount principle of our criminal law, if it does not put fairly before the jury the defence, however foolish and unfounded.

My early experiences of a trial conveyed the idea that it was a formal preliminary to passing sentence upon the accused who had the effrontery to plead not guilty. No doubt was entertained of his guilt, but it was necessary to make the jury realize it, and their untrained minds required guidance. The

prisoner's counsel, often treated with scant courtesy and little consideration, was endeavouring to defeat justice, and his endeavour must be promptly checked; any point that he might make in the accused's favour must instantly have its baselessness exposed. The summing-up was a powerful and often very elaborate speech for the prosecution; if it referred to the defence at all, it was only to demolish it. In addressing a jury I once expressed regret that the walls of the court were not decorated with scrolls setting forth, so little were they considered, such fundamental principles as that every man is presumed to be innocent until he is proved to be guilty, or that the burden of proof of guilt beyond reasonable doubt is upon the prosecution. Judges were not then, any more than they are now, all alike in judicial temper, but they were all in the absence of appeal absolute masters of the situation. At the Central Criminal Court trials were always conducted with greater judicial fairness than at the Metropolitan Quarter Sessions; if proof were needed it could be found in the anxiety of accused to be committed to the Old Bailey, rather than to the Sessions. The influence of the Queen's judges who tried certain cases was to some extent salutary, although before some

of them it was a terrible task to defend a prisoner. The ordinary judges showed little strenuousness in their judicial work ; some, indeed, like Mr. Commissioner Kerr, took no part in a trial unless it was to discredit the prosecution ; Common Serjeant Charley was not a powerful influence in any direction ; Mr. Russell Gurney, a man of rare judicial strength and impartiality, whose valuable services were largely utilized in great public inquiries, was in my time little at the Central Criminal Court ; Sir Thomas Chambers, who as Common Serjeant and as Recorder sat for more than thirty years, secured the conviction of offenders in such a quiet, gentle way that even they had no anger for him, while defending counsel, to whom he showed both kindness and courtesy, all regarded him with affectionate respect. Sir Charles Hall, in his brief recordership, always took a strong line and was sometimes acrimonious quite as often at the expense of the prosecution as of the defence. But the spirit that predominated at Clerkenwell was not wholly absent from the Central Criminal Court. The strongest personality in the Metropolitan Criminal Courts was undoubtedly Sir Peter Edlin, who was judge for more than twenty years ; his influence on counsel practising in the Criminal Courts was

deep and lasting. Possessed of great ability and a kindly nature, he was a sound Criminal lawyer and a man of just and measured judgment, whose sentences, except that the standard was not the standard of to-day, were perfectly standardized. Unhappily an inordinate vanity and an impracticable temperament robbed his merits of the recognition they deserved. His method of trying prisoners was the completest example of what according to the principles and precepts of the Court of Criminal Appeal it should not be ; yet he acted quite conscientiously, and as he thought justly, and not out of harmony with prevailing opinion. Let me illustrate these generalities by specific facts. He never tried a case defended by counsel on the first day of the Sessions ; the jury must be educated. They must be carefully selected ; the self-opinionated men who object to the taking of an oath must forthwith be removed from the box ; any who showed a troublesome inquisitiveness must be weeded out at the first opportunity. The selected body remained in the box for the whole Session ; long before it reached its end they were thoroughly disciplined. This was the greater tribute to the judge's powers because, owing to the fact that there were several newspapers that persistently reviled

him, often for no good reason, jurors constantly came into the box deeply prejudiced against him. The examination in chief was frequently taken out of the hands of counsel however experienced, and the damning facts elicited with a skill that it was a valuable study to watch ; the cross-examination was never allowed to proceed without interruption, for immediately something favouring the defence was obtained, Sir Peter interposed questions, usually with success, to displace it. Whatever points counsel made in addressing the jury were surely swept away when he had sat down by the judge recalling any number of the witnesses and examining them afresh without allowing counsel any further question or observation. The summing-up was long and elaborate, missing no fact pointing to guilt and weaving all the inferences together into a clear and simple narrative that usually at once captivated the judgment of the jury ; if they were not prompt in returning their verdict and were any time in discussing among themselves, they would be sharply interrupted and asked in indignant tone of voice if the evidence should be read over to them ; sometimes they had in plainer language a second summing-up. Should it even then come to pass that they returned a clear and unmis-

takable verdict of not guilty they received from the judge an awful stare of indignation ; there would be a pause and a silence broken at length by a curt direction to the jury to leave the box, but remain in waiting. Sir Peter Edlin regarded an acquittal as a personal insult.

It was a common occurrence to try a prisoner on a second or even a third indictment after he had been convicted on the first before the same jury. I once mildly suggested to Mr. Justice Day that it was scarcely affording a fair trial to try what was then known as a "shooting burglar" on a second charge before the jury who had just convicted him of a similar offence. The learned judge seemed to think my suggestion as preposterous as it was unusual, and only after much pertinacity on my part did he consent to defer the trial until the next day before another jury ; but my real motive—so usual was it to try a man twice before the same jury—to get before another judge was defeated by his coming down himself specially to try the case, and after the formal verdict sentencing the prisoner to penal servitude for fifteen years.

When the accused, an old convict, had given a false address it was usual to elicit

from the police that they had made inquiries there and could learn nothing of him. It was equally common in such a case for the judge in summing up pointedly to remark to the jury, "There is the prisoner, gentlemen; we know nothing of him, who he is, or what he is." This observation became still more effective in the subsequent cases when the record of the particular prisoner was revealed after verdict. To-day, if by some mischance something of the prisoner's bad past is disclosed, the trial is immediately stopped and the case recommenced before another jury who were not in court. Even if the prisoner himself, on his arrest, should say something detrimental to his own character, it is now carefully suppressed; similar admissions of past misdeeds in his statement before the magistrate are invariably omitted. Such disclosures were in the bygone days always given in evidence and made the subject of special comment. It was considered a proper judicial observation to point out that the prisoner was charged with stealing valuable property; it had not been recovered and "now he is defended by counsel!"

The accused was not competent to give evidence on oath. If he were not defended by counsel he could say from the dock any-

thing he pleased, but if he were defended by counsel the procedure, which varied at different times, was arbitrary and unjust. At one period he was not allowed to say anything at all; if he had made a statement before the magistrate and the prosecution did not put it in, his own counsel could not make use of it, because, as Mr. Justice Cave ruled, the statute said in its caution "it may be used in evidence against you," and could not be used in evidence for him. For several years counsel were permitted to state fully the defence which the accused instructed them to state; then that practice was forbidden and counsel could only put such defence hypothetically, with a result often whimsical and ludicrous. The Queen's judges at different times met and laid down rules as to the permissible procedure. The final rule was that the accused, though defended by counsel, might make a statement before his counsel addressed the jury, but if he introduced any fresh facts—if he did not introduce fresh facts his statement would serve no purpose—the counsel for the prosecution was entitled to a general reply. In practice this rule was very rarely followed, but it enabled the judge to stop the well-worn observation about the prisoner's mouth being closed. It was some time before the Prisoners'



Evidence Act worked smoothly ; one judge insisted that the prisoner's option of going into the witness-box must be expressly exercised by himself ; it was not enough for his counsel to call him. I once called a prisoner before that judge ; he insisted on asking him if he wished to be sworn, and cautioned him at length on the possibility of cross-examination and on the consequences of perjury ; the prisoner, terror-stricken, threw down the Testament and hurried back to the dock. Yet this particular judge, Mr. Loveland, was an amiable, kind-hearted, courteous judge before whom it was a pleasure to practise ; so difficult was it for judges habituated to the old methods to adapt themselves to the new spirit in criminal trials. One Chairman of Quarter Sessions, Sir Ralph Littler, on the passing of the Prisoners' Evidence Act had a large placard headed "Warning," giving the penalty of perjury, fastened to the front of the witness-box ; it was only a pursuance of his practice of solemnly warning prisoners' witnesses before they were sworn of the consequences of perjury ; if they were still undaunted, their evidence was taken down by him with much parade and elaboration. Prisoners' witnesses, no doubt, did not always speak the truth, nor do prisoners themselves

too scrupulously adhere to it. But that the credibility of witnesses was for the jury and not for the judge was not always present to the judicial mind; yet juries displayed as keen a discernment in dealing with the evidence of prisoners' witnesses as they display to-day in dealing with the prisoner's own evidence. The mischief was that they were made exceptionally incredulous by the manifest opinion of the judge.

Justice administered in the fashion that once prevailed was deplorable from another point of view; it degraded the tone and character of advocacy. The bludgeon was too often the weapon of the advocate. The judge was denounced and insulted; the witnesses, especially the police, were accused of wilful perjury; the address to the jury was clamour and vituperation. It was only gradually that subtilty and plausibility took the place they now occupy in the armoury of the advocate. "Bench and Bar," "Scenes in Court" were frequent headings in the newspapers; observations were made to the judge, and to the jury about the judge, which to-day would scarcely be credited. I have heard Thorne Cole, a loud-voiced advocate, who was a terror to Sir P. Edlin, in addressing the jury, compare him somehow to

Nebuchadnezzar and denounce him as the coiled-up boa-constrictor, who was about to spring on the unhappy prisoner. There was perhaps more turbulence at the Bar than even the circumstances excused ; but the most orderly and regular advocate had a very difficult task to discharge in doing his simple duty to his client. There is one distinguished judge, a model of propriety then and now, whom I have heard after an angry altercation with the judge peremptorily ordered to sit down. To-day counsel is usually on velvet if he be defending ; it is if he is prosecuting he is on thorns ; while there is much less difficulty in obtaining an acquittal there is much more difficulty in obtaining a conviction ; but in either capacity it is quite his own fault if he do not receive courtesy, consideration, and kindness from the Bench.

## 2. CRIMINAL PUNISHMENT

Even more striking and more easily demonstrable than the change in the spirit and methods of criminal trials is the change in the treatment of the accused after conviction. The predominant idea was punishment, and punishment that should leave an indelible impression on the convict, and powerfully deter others from in like case offending. Crime

must be stamped out, and could only be stamped out by severity. Certain crimes, such as forgery and horse-stealing, could only be adequately punished by five years' penal servitude. Post Office offences were so mischievous that the Queen's judges resolved they must always receive at least that sentence. Receiving stolen property was often punished with five or seven years' penal servitude even on a first conviction. Little if any consideration was paid to the value of the property, to the particular circumstances of the offence, or to the age or antecedents of the offender. These principles and this practice may be illustrated by cases taken from the Session Calendar of 1877: A woman aged 78, larceny of loin of mutton, value 7s. 6d., seven years' penal servitude. A youth aged 19, for petty larceny, seven years' penal servitude, to be followed by seven years' police supervision. A man aged 73, larceny of saw and other articles value £2 4s. 6d., eight years' penal servitude. A man aged 72, stealing a tap value 3s. 6d., seven years' penal servitude and seven years' police supervision. A man aged 26, larceny of coat value 7s., eight years' penal servitude. A youth aged 18, larceny of watch, penal servitude for seven years and police supervision for seven years.

A woman aged 43, on first conviction for receiving, five years' penal servitude. A man aged 48, on a similar first conviction, seven years' penal servitude.

The effect of such sentences upon the convicts themselves may be gathered from the following cases taken from the same calendar. A woman aged 52 was sent to penal servitude for ten years for stealing clothes value 7s. 6d. This was her record:—

1851	...	...	...	6 months
1852	...	...	...	8 months
1854	...	...	...	12 months
1855	...	...	...	4 years
1860	...	...	...	7 years
1866	...	...	...	10 years

A woman aged 37, sent again to penal servitude for seven years, had this record:—

1860	...	...	...	3 months
1863	...	...	...	4 months
1865	...	...	...	7 years
1872	...	...	...	7 years

A man aged 73 was sent to penal servitude for eight years; his record showed:—

1857	...	...	...	4 years
1862	...	...	...	5 years
1867	...	...	...	7 years

In 1877, at the Middlesex Sessions, 185 sentences of penal servitude were passed, amounting to 1,362 years. In 1912 they had fallen to 78, amounting to 239 years. In 1877, at the Central Criminal Court, 208 sentences of penal servitude were passed, amounting to 1,496 years. In 1912 they had fallen to 111, amounting to 456 years.

The extent to which the old faith in the efficacy of sentences crushing in their severity has yielded to the teachings of experience, and the effect of the enlightened views of the judges of to-day, enforced by the standardization principles laid down by the Court of Criminal Appeal, is demonstrated at a glance by this table.

MIDDLESEX SESSIONS.			LONDON SESSIONS.
1877.			1912.
Sentence.	Number.		Number.
3 years <sup>1</sup> ...	...	—	74
4 years <sup>1</sup> ...	...	—	3
5 years ...	...	24	1
6 years ...	...	2	None
7 years ...	...	110	None
8 years ...	...	28	None
10 years ...	...	19	None
12 years ...	...	1	None
14 years ...	...	1	None

<sup>1</sup> Not allowed by the statute in 1877.

## CENTRAL CRIMINAL COURT.

Sentence.		1877 Number.	1912 Number.
Life ...	...	2	None
20 years	...	2	1
15 years	...	75	None
14 years	...	4	None
10 years	...	86	3
8 years	...	7	None
7 years	...	71	7
6 years	...	2	1
5 years	...	82	22
4 years <sup>1</sup>	...	—	9
3½ years <sup>1</sup>	...	—	2
3 years <sup>1</sup>	...	—	66

The punishment of Post Office offences aptly illustrates the change that has taken place. For many years, in obedience to the resolution of the Queen's judges, the sentence was at least five years' penal servitude for young and old alike whatever the circumstances of the case; gradually, when Sir Thomas Chambers was Recorder, exceptional circumstances, the age of the offender or the character of the crime, were allowed to reduce the sentence to eighteen months; then when Sir Charles Hall was Recorder it fell to twelve months, still with penal servitude for ordinary cases; now, with Sir Forest Fulton as Recorder, the minimum has sunk to nine months, sometimes six, and

<sup>1</sup> Not allowed by the statute in 1877.

occasionally to three months and a sentence of penal servitude is rare. Not long ago a Post Office servant who did not steal single letters or parcels but whole mail-bagsful received only fifteen months ; if that man had been convicted when Sir Forest Fulton, who passed that sentence, himself represented the Post Office he would have been sent to penal servitude for seven years.

The receiver of stolen property is another offender whose treatment has changed. At one time penal servitude was usually his fate ; then he was given a sentence of imprisonment about double the sentence of the thief. Now, if he be a man of previous good character, if his crime be apparently an isolated one, if the police have had no reason to suspect him as a receiver, and it is not shown that he has tempted honest servants to rob their employers, he is allowed out on his recognizances. Scores of such receivers, respectable tradesmen tempted by a bargain in the commodity in which they deal, perhaps at a moment of financial difficulty, saved from the ruin of prison, have resumed a life of honest trading.

The treatment of children and of first offenders in the past affords a striking contrast to the practice of to-day. A child of ten might be sent to a convict prison and must be sent



there for not less than ten days if it was desired to send him to a reformatory. It was thought impossible to reform without previous punishment; prison must always follow crime. It was the Legislature that laid down that an offender under sixteen must be sent to prison for not less than ten days in order to be afterwards sent to a reformatory for not less than two and not more than five years. If the offender had not attained the age of ten, this power could only be exercised by a Judge of Assize or by a Chairman of Quarter Sessions unless the offender had been previously convicted. It is now difficult to understand how any one could have contemplated the bringing of a child of ten before a Judge of Assize to be sent to prison in order to qualify for a reformatory; nor why two justices should have that power if the child had been convicted when he was nine. It may be that this provision, like many enactments, was a dead letter from its passing. But constantly, in my experience, children under sixteen were sent to prison for six weeks—ten days was only the minimum of the statute—to be followed by four years in a reformatory. Yet it did not altogether escape the notice of some judges that such children, in spite of the punishment of prison and notwithstanding the reformation of

the reformatory, soon appeared again in the dock, cunning and confirmed criminals. But the true lesson was not drawn and the system continued. In recent times many prisoners have appeared at the Sessions after thirty or more years of crime during which they have suffered every form of punishment, and the first entry in their record is the period of reformatory with the preliminary period of imprisonment.

Now such young offenders are sent to Sessions only when their age, character, and surroundings make them fit subjects for a period of useful training under the Borstal system. If through being charged with grown-up offenders they must be sent to the Sessions, they await trial in a Remand Home, and the judges take the utmost pains to provide home, guidance, and employment on their discharge. No one thinks of sending them to prison. As a rule such offenders are dealt with by magistrates who tell their fathers to take them home and give them salutary chastisement.

It was often said from the Bench even as to petty offences committed by youths of good previous character that it must not go forth from the court that they could be committed with impunity, consequently boys of sixteen were sent to prison for six months. Nothing

could shake the profound and honest belief that the cure for crime and the prevention of crime was prison. To-day it has been laid down as a maxim that no convict should be sent to prison unless in the public interest it is absolutely unavoidable. The old, predominant idea of punishment has had to yield to the idea of reclamation and reform. It is realized that prison, besides its demoralizing effect, is a place where friendships may be formed, disastrous when the friends regain their liberty; the chance mutual recognition of those who have "done time" together often leads to fresh crime. The wise and salutary policy of releasing upon recognizances first offenders, which was begun as early as 1877, has been ratified again and again by legislative enactments, is now extended even in serious offences to offenders for the first time of any age and even to serious offenders who have already been convicted, where, by a substantial interval of honest work, they have shown themselves deserving of yet another chance of permanent reform. Such persons are not left to their own efforts, but valuable help and encouragement is afforded by the probation officers and by the agents of the different Prisoners' Aid Societies in the difficult task of obtaining employment. Statistics have shown the wisdom

of the new method, not only in its advantages to individuals but in its advantage to the public in checking the supply of recruits to the army of hardened criminals. The progress of this enlightened policy is shown by figures from the court records. In 1877 at the Middlesex Sessions, 86 offenders were released on recognizance. Of these 69 were released by Mr. Serjeant Cox, the pioneer of the policy; in 1912 at London Sessions the number under the influence of Mr. Wallace had risen to 651; at the Central Criminal Court in 1877 only 7 were so treated; in 1912 the number had risen to 112.

## CHAPTER III

MR. JUSTICE HAWKINS, MR. JUSTICE DAY,  
AND MR. JUSTICE STEPHEN

THESE were judges whose methods and disposition were most characteristic of the judicial temper of their day. I had had little experience then and I positively dreaded to come before them. They had this principle in common, that whenever they believed a prisoner to be guilty they spared no effort to convict him, however little the actual evidence proved his guilt. It may have been highly moral, however hazardous, but it was inconsistent with the fundamental principle of our criminal law. I have few notes of cases before them, for after they had, to use the expressive phrase of the day, "wiped the floor" with me, I was too sick when I got back to chambers to feel any desire to record the incidents of the day.

My earliest experience of Mr. Justice Hawkins was in the Penge Murder case. I was only a voluntary helper to Douglas Straight, and as I had been called only a short time

my impressions at the moment are worth little. But I thought the fatal blunder was the defence of Alice Rhodes. She was represented by an advocate briefed, it was understood, in the anticipation that Lord Chief Justice Cockburn, with whom he was likely to have influence, would try the case, but he had had scarcely any criminal experience and made a pitiable speech to the jury. Alice Rhodes no doubt gave the motive of the crime, but took little, if any, part in it. Montagu Williams's rare capacity for the defence of a case such as hers was quite wasted in the defence of Louis Stanton, undoubtedly the villain of the piece. For the medical part of the case, which required exceptional industry, not the characteristic of any of the other counsel, and was absolutely vital, there could not have been a better choice than Edward Clarke. Montagu Williams and Douglas Straight readily left to him the burden of mastering the medical symptoms and their probable causes, though I remember Montagu Williams, in the course of the case, rather regretted he had surrendered altogether that part of the defence. The conviction of Alice Rhodes for murder, a result natural for a jury convinced justly of her moral responsibility for the death of the victim, really vitiated the conviction of all and led to the popular agita-

tion that speedily arose. It was quite the fault of the judge that the accused, against whom the evidence was strong, were not convicted of their real crime, manslaughter. But this is only the view of an inexperienced barrister, for I have not since studied the case.

Mr. Justice Hawkins took a malign pleasure in inconveniencing counsel. I once had to defend, at Hertford, a shooting burglar caught in Lord Salisbury's grounds. At the London station I met the judge, and he invited me into his reserved compartment. During the hour's journey he was continually telling me stories of his judicial experience to prove his anxiety that prisoners should get justice if innocent or leniency if guilty. Whenever I could I interposed expressions of agreement and admiration. The bill against my prisoner was returned very early, and on the strength of what had passed in the train I ventured to ask the learned judge if he would dispose of the case as it was only a plea of guilty. With the familiar merciless smile which the Roman emperors must have worn when in the gladiatorial fights they turned their thumbs down, his reply was simply, "No, not to-day." I think I travelled down three or four days, and it was only on the last day of the assize that he dealt with my case. There was no

public object whatever in the delay. There was a story of how he was once cleverly worsted at this game. A well-known member of the circuit asked him privately to take a case of his that afternoon as he had an engagement in London next morning. He refused, whereupon the counsel ostentatiously packed up his briefs as if going away. Not long after his departure Mr. Justice Hawkins called the case on; the accused had been given in charge to the jury and the prosecuting counsel had nearly completed his opening when the adroit tactician quietly returned into court, well satisfied with the success of his ruse.

At the Central Criminal Court there was a daily list of cases, but with Mr. Justice Hawkins no one considered it. He was quite likely at once to pick out the very last case for trial, and certainly if he thought counsel was not ready. He was far more frequently at the Central Criminal Court than any other judge; in one year I think he presided nine Sessions out of the twelve. It used to be said that many of his brethren disliked going "scavengering" at the Old Bailey and gladly surrendered to him their turn on the rota. There was no doubt he was thoroughly at home in the work and enjoyed it. He was a sound Criminal lawyer and many of his decisions, often in favour of



the accused on points of evidence and procedure, are still respected as authorities. One really cruel practice peculiar to him was to reserve the sentence on all the convicts till the last day he sat. They would then all, men and women alike, be brought up, sometimes quite filling the dock, and one after the other be sentenced in a grand battue of punishment. They were not cases of similar character, which might properly be dealt with together, but all sort of crimes short of murder. This work would occupy the morning, and he would have a holiday for the rest of the day.

Mr. Justice Hawkins tried a charge of manslaughter in which I defended. It arose out of a deadly quarrel between two men who had both undergone penal servitude. The case had been very imperfectly laid before Mr. Bushby at Worship Street, owing, I fear, to the way I had hustled and harried the police, who were not legally represented. At one moment I actually got the learned magistrate to discharge the prisoner, and it was only on the vehement protest of an inspector of police that he called him back into the dock and ultimately committed him for trial, though, in spite of his past, he allowed him bail, which he easily procured. Just before the trial notice of fresh evidence was given. It was the

evidence of a police-constable, if true, quite conclusive of the prisoner's guilt. But coming at the eleventh hour, not given either before the coroner or before the magistrate, its force was much diminished. The prosecution was conducted by an advocate whom I have always regarded, from his strength, lucidity, and fairness, as the most deadly antagonist I ever met—Horace Avory. But the learned judge never showed greater determination to secure a conviction. For that very reason, perhaps, the jury took an independent view. After being locked up a long time they declared they could not agree. Mr. Justice Hawkins postponed the trial to the next Sessions, but refused to let the accused go out again on bail. Next Sessions, tried before Mr. Justice Lawrence—"Long Lawrence" as he was styled to distinguish him from a brother judge—I had no difficulty in securing an acquittal. If the accused had been convicted before Mr. Justice Hawkins he would certainly have been sent to penal servitude for life, for if he were guilty his crime was little distinguishable from murder. The conspicuous unfairness of Mr. Justice Hawkins may really have defeated justice. But the fortunate man took warning, and apparently abandoned his old courses, for some years after he came to me about a matter on which I referred him

to his solicitor, but it showed that he was in possession of some means and leading an honest life. Perhaps, after all, the interests of society were served by his acquittal.

Mr. Justice Day was a parishioner at Hampstead of my uncle, Canon Purcell. On the strength of that fact he was asked to discharge the formal duty as a Benchet of calling me to the Bar. I afterwards met him in the robing-room at Westminster and sought his advice about the choice of a circuit. I said I thought of joining the South-Eastern Circuit. "Oh yes," he said, hurriedly leaving the room; "join the South-Eastern Circuit and stop at Colney Hatch." It was sound but cryptic advice, and with the knowledge I then had, afforded me no guidance.

I defended before him a man charged with attempting to murder his wife; if he had been fairly tried he would certainly have been convicted. He was the skipper of a steam-tug, and it was said he pushed his wife into the Thames. One dark night she certainly went over the side of the tug after a quarrel with him, and she was cruel enough to say that her husband not only pushed her overboard, but also when she was in the water refused to help her from drowning, and even tried to prevent another bargee from going

to her rescue, saying something like "Let the blank drown!" She was, however, dragged out. My defence was that she accidentally fell into the water and her accusations were false. The learned judge in gruff and angry tones dwelt upon the awkward points of the case, and told the jury it was only God's providence that had saved the prisoner from being hanged for murder. But his manner had stimulated me, and I had secured the jury. To his disgust they returned a verdict of not guilty; he gazed upon them through his glasses as if they were some foul beast. His sentences were terrible. He sentenced a lad of seventeen, convicted, it is true, of a very shocking offence, to penal servitude for life, in spite of my appeal on account both of his youth and of his being certainly under the influence of older and even worse criminals. It was a sentence that provoked a public agitation, and was probably reduced by the Home Secretary.

Of my experiences before Mr. Justice Stephen I have no note, only a vivid impression of his judicial manner, with a recollection of cases too hazy to be reliable. At his occasional visits to the Central Criminal Court I used to rejoice, as probably he did, that he had not succeeded in his candidature for the Recordship. I was junior to Kemp, Q.C.,

in the defence of a man convicted of the manslaughter of his wife. He came home late, complained that his dinner was cold, and when his wife said it was his own fault he took up a table-knife and stabbed her. Shocked and sobered at what he had done, he ran for assistance and expressed his grief. When told his wife was dead he fell to the ground unconscious. Mr. Justice Stephen sent him to penal servitude for twenty years.

At length the time came when it was a positive pleasure instead of a terror to defend prisoners before the judges of the High Court. Defending counsel received consideration as well as courtesy. Judges did not walk out of court, saying roughly, "Go on," when he was addressing the jury, nor ostentatiously read *The Times* to show the insignificance of his observations. He was allowed quite patiently to unfold his defence, and the jury were left uninfluenced to see its inadequacy. Recently I defended a man on a charge of throwing vitriol in his wife's face after having more than once threatened to blind her. I had no real defence, but such defence as I had I was allowed to set up without merciless interruption, and I was suffered to call witnesses whose evidence was scarcely admissible at all to prove it. If the learned judge, after the

manner of his predecessors, had "wiped the floor" with me I might have got some sympathy from the jury. I was given plenty of rope and no grievance. The jury promptly convicted. The result promoted the interests of justice, for the evidence I had been allowed to call enabled the judge better to appreciate the character of the prisoner's crime, and instead of sending him to penal servitude, which I had anticipated as inevitable, he sent him to eighteen months' imprisonment. In another case I heard a learned friend set up a defence which was, as he admitted to me, positively impudent. He was given every latitude and was twice warmly complimented by the judge. The jury without a moment's hesitation convicted. There is no greater difficulty for defending counsel, in most cases, than a patient and really judicial judge. The judges of old in their zeal for a conviction were responsible, as I know from my own experience, for many grievous miscarriages of justice.

## CHAPTER IV

### CAREFULLY PLANNED CRIMES

#### 1. A GREAT DIAMOND ROBBERY

THE most remarkable characteristic of the work of the modern criminal is its preparation. Skilled criminals combine and elaborate a plan with extraordinary patience. A diamond robbery that attracted much attention in its day was a striking illustration.

A diamond merchant, a feeble old Jew of miserly habits, kept in his dwelling-house a stock of diamonds of many thousand pounds' value, and a quantity of bonds. This became known to two diamond dealers, respectable men but in financial difficulties. They conceived the idea of robbing him of his hoard. Through a young man employed at one of the hospitals, who for a long time had had intimate relations with his daughter, they were introduced to an Italian. He was quite a unique personage. A man of good education and great cunning, he was said to be the brother of a distinguished Italian Minister.

Apparently from political crime he drifted into ordinary crime. He was suspected of complicity in the Orsini conspiracy to assassinate Napoleon III; he admitted under my cross-examination that he was at the opera when the bomb exploded and thought it prudent to leave for England that night. Here he led a life of persistent crime. His favourite pursuit was the sleight-of-hand called "maceing," described by himself in the witness-box with inimitable by-play, by which valuable jewels are abstracted from jewellers' trays by a pretending purchaser. Often successful he was, yet often caught; four months, three years, six years, and two terms of eight years penal servitude had already been his punishments. In penal servitude he made the acquaintance of one Black, an equally persistent criminal. Black had at this time just completed seven years penal servitude after terms of six months and fifteen months imprisonment. Several of his family had needed my services; one, Grey, had undergone several terms of imprisonment and seven and ten years penal servitude. At liberty, together, the Italian, Black, and Grey visited Paris on a marauding expedition, but quarrelled, over their expenses said the Italian, more probably over his distribution of the spoil.



To the Italian the diamond dealers broached their idea of robbing the diamond merchant. It was not quite in his line, but the booty, said to be £30,000 worth of diamonds besides the bonds, tempted him. He sent his daughter, a handsome girl, the child of an Irish woman, to visit the merchant and reconnoitre the premises. Her report was satisfactory.

The plan was to chloroform the diamond merchant and make off with his diamonds and his bonds. The hospital employee procured some chloroform and, to satisfy the Italian, experiments were made with it. At the Italian's lodgings it was tried on a kitten, but as the Italian described it, only made the kitten "sneeze a bit." He insisted that if the liquor failed he would be caught like a "rat in a box." A second experiment was made on a live rabbit purchased for the purpose, equally to the dissatisfaction of the Italian, who was apprehensive, as he stated, of ruining himself by another conviction. A final and still unsatisfactory experiment was made on a woman in Hyde Park.

Then violence was suggested instead of chloroform. Thereupon the hospital employee who had been the apostle of chloroform withdrew from the plot. The Italian told the diamond dealers he knew two brothers who

were "very crafty" who might be willing to supply the necessary violence. It was at this time the Italian and Black and Grey had become reconciled. To them he appealed for help; they cordially embraced the scheme. It was agreed to divide the diamond merchant's property in equal shares, and like prudent business men, they made conditional arrangements if the spoil should unhappily prove less valuable than it was estimated. Nor were they content with one diamond merchant; designs of a similar character were formed against other merchants, and visits of a reconnoitring character were made to their premises.

The Italian and the two dealers ran over to Paris. At a well-known Parisian shop they selected diamond jewellery to the value of 2,000 francs, and asked for an invoice as a memorandum, saying they would return next day to complete the purchase. Having thus obtained the firm's genuine invoice, they converted the 2,000 francs into 20,000, affixing a receipt stamp, which gave the document the appearance of a receipt for a substantial transaction. Incidentally the Italian visited a jeweller's shop on his own account and abstracted a pair of earrings, which on his return to London his devoted daughter pledged for £20.

It was decided that the diamond merchant must have a "tap on the head," but only sufficient to stun him. The Italian had scruples about committing murder.

The Italian and Black visited a stick-shop, where they purchased a life-preserver for ninepence. Having provided themselves with a very powerful weapon, their next step, in deference to the Italian's scruples, was to moderate its force. They purchased some gutta-percha and, at the Italian's lodgings, it was heated and fastened on the knob of the weapon.

Every one of these incidental facts was subsequently proved by independent witnesses called to corroborate the Italian when he became a witness for the Crown.

The Italian and Black visited the diamond merchant. They were readily admitted, hardly needing the Parisian invoice, for the merchant, though miserly, was keen to do business. The Italian selected some diamonds, but hearing or fancying he heard sounds in the adjoining room, while pretending to hold a diamond against his hat, whispered to Black, "For God's sake don't do it; there is some one in the next room!" A purchase was arranged, and the Italian said he would go and cash a cheque and return later in the day.

Grey had been posted near the door to check pursuit, and the two dealers were in a neighbouring public-house. When the Italian rejoined them they twitted him with cowardice, and as he said, "snapped their fingers" at him.

Next day the visit was repeated. While the Italian was seated next to the merchant, sorting some larger diamonds, which, at his request, the merchant had opened his safe to procure, Black, standing behind, dealt him two blows on the head, and as he in his half-stunned state grasped his precious stones, followed up with a third blow on the head which finally disabled him.

The design had been to stun him so completely that the two conspirators would be able to seize the diamonds they had been examining, and to ransack the safe of its diamonds and its bonds. Either Black's blows were too light or the weapon was too thickly padded, for the victim, instead of being stunned into silence, shrieked and groaned so loudly as to make necessary immediate flight. His wife and the servant-girl hurried to the room. The Italian met the wife face to face on the stairs. He could have escaped, he declared, by running against her, but rather than throw a woman downstairs, he stood aside and Black unfairly seized the opportunity of brushing by and

getting out of the house. The Italian followed as best he could, pursued by the servant-girl, crying, "Stop thief!" Then came Grey's opportunity. He seized the girl and asked what was the matter. "Stop that man and I'll tell you," she cried as she broke from his grasp and continued the chase.

The Italian, as he piteously explained, being old and feeble, soon succumbed, and was in the grasp of a constable. Black, younger and more agile, got away; Grey was not suspected.

The Italian was sentenced by Mr. Justice Hawkins to fifteen years' penal servitude. Something like £2,000 worth of diamonds were missing; £700 worth had been taken by the Italian, of which some were found on him, and the rest, with characteristic adroitness, he contrived to secrete in spite of the search at the police-station, but in default of a better way of disposing of them, had to drop them into a pail at the House of Detention, where they were found by a warder.

Soon the Italian's daughter was in communication with the police and the whole plot revealed. The Italian was bitterly enraged against the two diamond dealers for neglecting to provide for his daughter, to whom he was deeply attached. He also wanted to earn a remission of sentence.

Black had got away to America with the plunder he had seized. On his return to London all the conspirators were arrested. Although the police had willing and clever informers in the father and daughter, they made a sorry bungle of the case; at times it was on the brink of collapse. I was taken to the police-court to defend Black and Grey. The police-officer in charge told me that it would come to nothing, and the Treasury clerk who prosecuted gave me an equally poor opinion of his case. The accused could not conceal their delight at the muddle that was being made. For Grey, in spite of his past, I actually got bail; to my surprise he duly surrendered next time.

On the remand the Italian was put in the witness-box. Mr. Bridge, afterwards Chief Magistrate, soon saw the true character of the case, and from that moment conducted it himself. He was actually the examining magistrate. With the utmost patience he elicited from the Italian, a difficult and terribly discursive witness, every detail of the scheme and ferreted out every witness of incidental facts who could supply corroboration. The witnesses he discovered he directed the Treasury Clerk to summon.

When the Italian's daughter gave evidence

what Black did after escaping from the diamond merchant's house came to light. He ran off in a northerly direction, reached St. Pancras Station, jumped into a hansom, telling the cabman to drive to Portland Road Station ; there he walked through the station, and being still hatless, in a neighbouring street purchased a hat. Then he went to the Italian's lodgings, beckoned the daughter, who was watching at the window, told her of her father's capture and of his own flight, advising her at once to move elsewhere. Mr. Bridge secured the attendance of the cabman and the latter to corroborate the young woman's narrative.

Danger of collapse was gone ; the case went for trial and came before Mr. Justice A. L. Smith. At the trial I defended Black alone ; the two men's cases were too distinct to be advantageously defended by the same counsel. With an exceptionally expeditious judge, who was intolerant of elaboration and prolixity, the trial lasted four days. The jury were in deliberation for two hours, although the defence of all the accused, except Grey, was quite hopeless. The evidence against him was so slight that he ought to have been acquitted. All were convicted ; the two diamond dealers were sent to penal servitude,

one for seven, the other for four years. Black received ten years, escaping the cat, which he dreaded, for it was robbery with violence, and Grey five years' penal servitude.

This was not the last exploit of the Italian or of Black or Grey. The Italian obtained a substantial remission of his sentence, but he was soon again in the hands of Justice. After some forty years of allotted punishment he was finally sent to penal servitude for four years; that sentence he did not survive. His last crime was quite characteristic of him. In a tobacconist's shop he slipped into his pocket a valuable meerschäum pipe. He immediately offered it in pledge to a pawnbroker, saying he had recently bought it but was in want of money. The pawnbroker was willing to make an advance if he were shown the receipt. The Italian visited another tobacconist, selected two meerschäum pipes for a friend, and asked for an invoice to show his friend. The salesman complied with his request. The Italian betook himself to a neighbouring post-office, bought a stamp, affixed it to the invoice and was signing the firm's name across it when, by a singular chance, the firm's messenger boy came in to make a purchase and saw him signing his employer's name. He was alert



enough to follow him to the pawnbroker and reveal the device.

Grey, on his release, returned to his wife, a woman of superior position, at that time keeping a nursing home, but he could not lead a quiet life. Three months for being a suspected person was his next sentence. I was instructed to appeal to Quarter Sessions, but the appeal was discontinued. Then he was charged with housebreaking; by mere chance it fell to me to prosecute him. His look at me when I rose to state the facts was one of pained surprise. But I failed to convict him. On his next capture I was promptly instructed to defend him. The friend who called with the solicitor's clerk was no other than Black. With touching pathos he remarked of Grey: "He is getting old now, and I'm afraid we shall never meet again." This gloomy foreboding was quite unjustified. They lived to stand in the dock together, defended by me, more than once in later years. Grey's last case was necessarily a plea of guilty. His wife was dead; she had left him all she possessed, sufficient to maintain himself in the quiet life he could not lead. He was seen to walk into the sleeping car of the Irish Mail, alight with two bags and take them to a cab. In his pocket was a railway door key, nearly £20

in money, and notes of the times of the principal trains from the London termini. Mr. McConnell sent him to penal servitude for six years.

## 2. AN INGENIOUS COMMERCIAL FRAUD

This was a crime of a different description, but though completely successful in its object its perpetrators were in the end brought to justice.

A commission agent called upon a City merchant and offered a transaction in antimony ore. The price of the commodity was rising by leaps and bounds, and there was a certainty of substantial profit. A firm, B. Holt & Co., had sold to a firm of Woolford & Co. a consignment of antimony, but Woolford & Co. wanted financial assistance. The City merchant, a shrewd and cautious man of business, who proved himself an admirable witness, made inquiry through his bankers as to the position of B. Holt & Co. The founder of that firm was a Brazilian, and on opening his offices he took a name which, with only a different initial, was the name of a highly respectable firm in the same street. The bank therefore reported favourably; the Brazilian got the credit of the other firm. The shipping firm concerned in the consignment of antimony

ore was Emanuel Cahen & Co.; it really consisted of a Frenchman named Walters, who appeared in the negotiations as B. Holt & Co's. confidential clerk.

The City merchant agreed to advance £7,000 against the bill of lading. The ore was to be delivered to his order; he would send delivery orders to the firms who had already contracted to purchase sundry lots of it, but all payments were to be made direct to him. Ultimately the profits were to be equally divided between the City merchant, the commission agent, and Woolford & Co.

Woolford & Co. consisted of one Woolford, an old coloured man, a native of French Guiana, a smelter and experienced in minerals. He had carried out a little fraud in antimony on his own account. For a substantial sum he had sold by a sample, which yielded a most satisfactory result on analysis, a load of stuff—in fact, the sweeping of a disused smelter's furnace with some antimony ore sprinkled among it. But this was a crude and unpolished fraud in comparison with the artistic design elaborated by the Brazilian and the Frenchman.

The shipment of the antimony ore was from Seville; there was delay in forwarding the bill of lading. The City merchant went to see

Holt & Co. about it; he had an hour's interview with the Brazilian and his confidential clerk Walters. It was the City merchant's opportunity of identifying him on this, the only occasion he saw him, that three years later went far to secure the Brazilian's conviction.

At length the bill of lading was said to have arrived. The City merchant sent his clerk with a cheque for £7,000. Walters said he could not accept a cheque; it must be cash. There was no time to be lost, for Holt was in Paris, where he had another and a better offer for the consignment. Next morning the City merchant was informed that Holt had actually sold the consignment. Determined not to be deprived of his bargain, the City merchant applied to the High Court for an injunction restraining Holt & Co. from parting with the bill of lading. Holt & Co., for good reason, were not anxious to go into court to oppose this motion. They cleverly compromised. They had a second consignment of 800 tons of antimony which they had contracted to sell to Woodford & Co. The City merchant should have this consignment instead of the other. The legal proceedings were abandoned.

Again there was delay with the bill of lading, but late one afternoon its arrival was

announced. The City merchant, having gone abroad on business, had left instructions for the completion of the transaction. One of his instructions was to telegraph to the shipping company at Seville. No attempt to do it was made.

This time the City merchant's clerk had a cheque for £7,000 marked by the branch manager of the bank. Even this was not good enough for Walters. It was nearly four o'clock, but the parties hurried off to the bank. In the manager's parlour the bill of lading of the *Albatross*, recording its captain's name and its cargo of antimony, the policy of insurance of a Spanish company, and the enclosing letter of the Seville shipping company, were handed to him in return for £3,500 in notes and £3,500 in a banker's draft.

When left by himself, the manager examined the documents with somewhat tardy care. He found the bill of lading was made in triplicate, with the proviso that, one being executed, the other two became null and void. The City merchant's clerk hastened to Holt & Co's. office. "Return at 5" was on the door. They waited hours, in vain so far as Holt & Co. were concerned, but by chance they encountered another patient visitor. He was a printer who wanted payment for some work. The

work was the printing in Spanish of a bill of lading and a policy of insurance. The documents for which £7,000 had been paid never saw Seville ; they were created in Fleet Street.

Walters had cashed the banker's draft without a moment's delay, and betaken himself to Paris to join his principal. The office of Emmanuel Cahen & Co. was also closed. Telegraphic inquiries disclosed that the *Albatross* and her captain, the shipping company, and the insurance company were as imaginary as the 800 tons of antimony ore.

The conspirators won £7,000 ; the City merchant became bankrupt.

This story, buried in a vast mass of papers, was sent to me. I was to find out the case, draft informations, and obtain process. I succeeded in getting the commission agent and Woolford arrested in England ; Walters was arrested in France, and being a French subject, was tried and convicted there and sent to prison for ten years. Holt remained at large. At the Central Criminal Court the jury were not satisfied that the commission agent was more than an innocent intermediary and acquitted him ; while they convicted Woolford of his own little fraud, for which he was sent to prison for three months, they acquitted him of the greater fraud on the City merchant.

Three years later the City police heard that Holt, the Brazilian, whose name was Acquarone, was about to be released from a sentence of two years for another crime. The extradition warrant was revived, but for weeks the prisoner was kept waiting at Boulogne Prison. The Governor of the prison did not know what to do with him, and nobody appeared to want him. Ultimately he got to the Central Criminal Court. It was purely a question of identification after an interval of three years. I feared he would slip through my fingers. But he went into the witness-box; under cross-examination he gave his defence away. He was sent to penal servitude for five years.

### 3. STEALING A BROUGHAM OF JEWELLERY

The broughams of jewellers' travellers are special objects of well-planned attack.

A traveller visited different outlying districts each day of the week. On one day he visited the neighbourhood where he resided; on that day he was in the habit of lunching at his own home, leaving his brougham and its valuable contents in charge of the coachman. Thieves got to know this practice. About one o'clock one day the coachman stopped with his brougham outside a public-house in

a busy main road; he left it for a few minutes. In his absence two men came up; one, dressed in the blue coat and top hat usual with travellers' coachmen, mounted the brougham and drove off; the other walked away. Later in the day the brougham was driven into a quiet street, followed by a four-wheel cab; both vehicles were drawn up close to one another. A blue-coated coachman and two other men were seen to transfer a number of cases from the brougham to the four-wheeler; then the men went off in the cab, leaving the brougham to take care of itself. Some miles away the broken cases containing still a few trinkets were found on some waste ground. In this way was the robbery of £3,000 worth of jewellery successfully committed. Sensational paragraphs appeared in the evening papers, and the company with whom the jewellery was insured offered a reward of £300 for information that would lead to the capture of the offenders. Several people communicated with the police, and the police promptly took their statements. Two important incidents of the robbery had been observed. The gang, fortunately for justice, blundered in spite of their ingenuity. The spot where the brougham was driven off was possibly unavoidable. It was a fatal



blunder to effect the transfer of the plunder from the brougham to the cab in the quiet street they chose. A street of modest villas, where the sound of an unaccustomed vehicle brings maid and mistress alike to the windows, was the last place they should have selected. One maid, seeing the brougham drive in, jumped to the conclusion it must be a wedding, and called the mistress to the window. Another mistress looked out from another house; at a third house the maid went into the garden to have a better view of the startling event. These four persons communicated with the police. At the spot where the brougham was driven off was a woman with a perambulator waiting to cross the road; she, too, wrote to the police.

All these witnesses fixed the identity of one man, Blue; he was the companion of the blue-coated coachman and one of the men who helped to transfer the cases from the brougham to the cab. The woman with the perambulator was unshakable in her identification of Blue, but she failed to identify the coachman, Red, a man of singularly red hair.

On the other hand, two of the women who saw the incident in the quiet street positively identified him as the blue-coated coachman. The explanation of this difference came out

in the trial of Brown, who escaped arrest for some three months; two men were seen exchanging hats and coats; one of them was wearing a blue livery coat and tall hat. Brown, a dark man, was the coachman who drove off the brougham; Red was the coachman who helped in the transfer of the plunder to the cab.

The police kept assiduous watch on several men, following them about London and noting their associates; one was Blue, who had undergone penal servitude, and whose speciality was jewellery robbery, and another was Brown; the hope, not fulfilled, was to trace the property and the receiver; Blue was arrested at his house on his return from Yarmouth, where he had taken his family for a few days' unwonted holiday. He denied his guilt, declaring that on the 6th of September, the day of the robbery, he was working for a greengrocer on a round. There were found in his house a quantity of new clothing, and new furniture, and, still more significant, strips of a coachman's blue livery coat. Even more serious evidence was afforded by his sister-in-law. She was nursing the accused's wife, and the morning after the robbery she said she saw, in a saucer on the kitchen table, a number of gold pendants.

The greengrocer with whom Blue said he was working was then arrested. He was a man of excellent character, had been employed for several years by a public department in important work involving considerable trust in money matters, and he had relations in good and important positions. This was Red, the coachman, about whose identity, for good reason, two sets of witnesses differed.

I was instructed to defend both men at the Petty Sessions and attended several all-day hearings, my chief object being to get Red released on bail. He was entitled to bail by reason of his good character apart from the weakness of the evidence against him; the police did not oppose, probably because they thought if released he could be traced by them to the receiver of the stolen property, but the justices persistently refused to grant bail. For the rest all I could do was to cross-examine the identifying witnesses, a very entertaining task, for most of them fell victims to the stock snares for that class of testimony.

The cases against the two men were so different that I could not defend both at the trial; I elected to defend Red, much to the chagrin of Blue.

At the Petty Sessions the solicitors had given

me proofs of an alibi for Red, but I decided not to disclose it there. The case was tried before the Common Serjeant, Sir F. Bosanquet. I was inclined to fight it on the case for the prosecution, which depended on weak and uncorroborated identification; but I would not take the responsibility of refusing to call the alibi which was pressed upon me. It proved a perfect alibi and stood the test of cross-examination. It hinged on Barnet Fair; the day of the robbery was the second day of the fair. When I had concluded the evidence the Common Serjeant said, "I think you have proved enough" and asked the prosecution if they wanted to go on. Red, who had been refused bail and kept some two months in custody, was acquitted.

In the following Session two other men were tried. One was Brown, whom I defended. He was identified as the coachman who drove the brougham away; the other man was identified as the driver of the four-wheeled cab to which the plunder was transferred and he was proved shortly after the robbery to have deposited for safety with a publican £41 in gold and to have refurnished his house. Brown, like Blue, went into penal servitude for seven years. But the stolen property, and the receiver who disposed of it, remained untraced.

## 4. A CONCERTED STREET ROBBERY

A diamond dealer sometimes took home his wallet of diamonds ; at other times he left it at a Safe Deposit. One evening, walking down his street, as he passed a stationary taxicab, he was suddenly set upon by several men. Something soft was put over and in his mouth, his coat was wrenched open, his wallet broken away from its chain. The thieves jumped into the cab, which at once moved off. The victim attempted to get in after them, but was pushed back ; he then jumped on the footboard, grasping the chain of the taximeter. The driver hit him in the mouth ; some one else tried to pull him off. Then, fearing the alarm the victim made, the thieves got out and decamped. The cab continued on its way, the victim still on the footboard shouting "Murder !" The driver stopped at a public-house and inquired where he could find a policeman because he had been cheated of his fare. The diamond dealer, who could not speak English, was still shouting and gesticulating but could not make himself understood. The publican directed the driver to a fixed-point constable. But neither to the constable nor at the station, whither the officer thought they had better go, could the unfortunate foreigner in his excitement make his

complaint intelligible. The taxi-driver was allowed to go.

The incident got into the newspapers. Two men who saw the robbery came forward. One, a neighbour of the prosecutor's, attracted by the stopping of the taxi with its engine going, saw the attack upon him and the struggle at the cab. The other heard the victim making a gurgling sound as if he were being choked. But striking evidence was given by a lifelong friend of the taxi-driver. Two nights before the robbery the driver called at his shop and told him he had a job which would bring him £100. There was a diamond dealer who, though he carried diamonds to the value of £1,500, was in the habit of returning home in a penny tram. He was going to be set upon. It was to have been done that night, but they got the "wire" that he had not got his wallet with him. The friend, seeing that the driver had been drinking, said, "Harry, why don't you give up the beer and go straight?" So little importance did he attach to the driver's talk that he repeated it to friends as a specimen of a drunkard's nonsense. His opinion changed when he read of the robbery.

The taxi-driver, hitherto a respectable man, holding a licence for twelve years, and the owner of his cab, was arrested, and upon him

was found a diary. Under date of the Sunday after the robbery, was the entry "£100 — 0 — 0." At the trial he said his mother on that day lent him £10 for his business, but if the figures only meant £10 he could not account for the fourth cypher.

There was a better explanation of the talk to his friend. All he had said was that he had a good job to drive about a diamond dealer who, if he wanted £100 for his cab business, might advance it to him. This had been confused by his friend after he had read of the robbery. I afterwards heard this explanation was sufficient for the jury, but the entry in his diary convinced them of his guilt in the absence of his mother. One juror asked me why I did not call her as a witness to prove she had lent him £10.

The jury were a long time in retirement, but ultimately convicted. The taxi-driver was sent to prison for eighteen months. The actual thieves and the diamonds were never traced.

## 5. A CITY BURGLARY THAT WAS STOPPED

Information came to the City police that one Saturday afternoon a burglary would be attempted on the warehouse of a City furrier.

The scheme had been well laid. A man had called at the agents for the letting of an

empty house next to the furriers, and, saying he came from a company, was allowed to take away the keys to view the premises. They were duly returned, but not until facsimiles had been made.

On the Saturday, a dark, foggy, drizzling November evening, City detectives were on the watch. Five men, all evidently foreigners, were seen loitering in the street. After a quarter of an hour's watch more officers were sent for and posted inside the high hoarding of a recently demolished building. They cut holes in the hoarding to peep through unobserved. They saw the five men watching, waiting, occasionally separating and rejoining. At length one opened the door of the empty house and let two other men enter. The remaining three continued loitering about. The police pounced upon them and found upon one two keys. With one of these keys the police opened the door of the empty house. Going upstairs, they found hanging from a window a rope ladder and on the roof of the adjoining house they found two men wrenching up the slates. The officers cried "Hands up!" and the burglars promptly surrendered.

At daylight the officers again visited the premises and found a set of powerful house-breaking implements and, an indication that



the burglars contemplated prolonging their stay over Sunday, a bottle of brandy and a loaf of bread.

I was taken to the police-court to defend one of the men pounced upon in the street. He was a remarkable man. Although a native of Warsaw, he was a naturalized subject of the Argentine Republic, where he carried on business, but frequently made voyages to Europe. He was an exporter; it not infrequently happens that burglars are allied with an exporter who can expeditiously ship the plunder abroad, avoiding a dangerous and unsatisfactory sale in London. My prisoner had never been charged with any offence; all the others had been convicted; two of them had been convicted of a similarly planned attack upon a jeweller's shop in Dublin.

I cross-examined to show that the police were mistaken as to my prisoner; it was a foggy night and, peeping through small holes in the hoarding, they had not sufficient opportunity to discern the faces although they saw the figures of the men. My prisoner went into the witness-box. He declared the other men were complete strangers to him, that he left his home near Commercial Road to keep an appointment with a friend at a café in Leicester Square, but he missed his way in the fog and

hearing two men speaking Yiddish—he could not speak English—he asked them the way. It was at that moment the police pounced upon the three, confusing the innocent with the guilty. This was a pretty story, but the police were positive he was with the others from the first and, just before the two were let into the empty house, he raised his hat three times by way of signal.

At the trial all pleaded “not guilty,” even the two culprits caught on the roof. In summing-up the learned Common Serjeant could not refrain from saying that if they were not caught red-handed he did not know what it was to be caught red-handed.

I thought my prisoner was certain of an acquittal, but on the morning of the trial notice of fresh evidence was served which made his case look hopeless. One fresh witness was a very amateur interpreter, a hotel waiter, who had been fetched to the station on the night of the arrest. According to him my prisoner said he knew two of the men and that was why he asked them the way. But more serious was the evidence of a very experienced East End detective, Wensley, afterwards an exceptionally distinguished Chief Inspector, who said he knew all the prisoners by name as well as by sight; they were frequent companions and were often

followed. The case for the prosecution required a careful handling, which it did not receive; the fresh evidence of this officer was very feebly brought out and did not do the harm I anticipated. Nor, indeed, was my prisoner at all adequately cross-examined as to his story.

I called half a dozen witnesses to character who had known the prisoner, some from boyhood in Russia, and a great deal was said about his business and property in Argentina.

The trial lasted three days and the jury had, as I asked them, visited the hoarding, which was close to the court, to examine the detectives' peep-holes. From my own view I felt sure they would think them inadequate. They accepted my prisoner's defence and acquitted him.

All the others were convicted, but, fortunately for them, I had at the close of the case for the prosecution submitted there was no felony, as the burglars on the roof had not done more than raise the slates without breaking in. The learned judge agreed it was only an attempt, and therefore not punishable with penal servitude, which otherwise would certainly have been the fate of the men convicted.

## CHAPTER V.

### SIR THOMAS CHAMBERS AND SIR CHARLES HALL

SIR THOMAS CHAMBERS sat as judge at the Central Criminal Court for thirty-three years. He never made an enemy, and was regarded by the counsel who practised before him with affectionate respect. He tried prisoners quite calmly, and dispassionately gave counsel every indulgence in a genial, pleasant way, and in a gentle, quiet summing-up usually secured a conviction. Yet there was perfect fairness in the conduct of the trial. It was in his time that the practice began of supplying judges with a special calendar containing a full record of the previous misdeeds of the persons committed for trial. He would not look at it; he took it off his desk and threw it aside on the bench. Very many judges at once turn up the record of the prisoner they are trying; it must be very difficult to avoid some bias from this knowledge. At any rate, Sir Thomas would not trust himself or would not

embarrass himself with prejudicial knowledge. I have often noticed a distinct change of attitude when in the middle of a trial a judge has referred to the special calendar. In one case the judge appeared to me so much impressed by what I had elicited in favour of the accused's case that he looked to his calendar for guidance—and got it. Judges always knew of any conviction charged in the indictment, but the indictment did not give the sentence, and it was much less prejudicial than a full record of convictions and sentences.

Sir Thomas had a just dislike of a wrongful acquittal, but he was very rarely moved to express any disapproval of a jury's verdict. I once obliged him by a sound legal objection, much against his will, to discharge two hardened and dangerous criminals. It was entirely the fault of Mr. Commissioner Kerr. A furrier's warehouse had been entered and furs to the value of several thousand pounds carried off. The prisoners were tried before the Commissioner on an indictment which happened to contain no count for receiving. It was not difficult for me before the learned Commissioner to get the jury to say that the prisoners were not the house-breakers and thieves, but the receivers of the plunder. There being no count for receiving, they must

be acquitted. A fresh indictment for receiving was immediately sent before the Grand Jury, and as the Commissioner's day was over it came before Sir Thomas Chambers. Meanwhile ample information had been given to me enabling me to elicit facts that showed conclusively that they and no others were the actual thieves. They had been acquitted of stealing, and there was no evidence of receiving the plunder from anybody else. Sir Thomas at first refused to stop the case, but while I was addressing the jury he interrupted me and said he much regretted he thought he must withdraw the case from them and direct an acquittal. But justice in time triumphed, for they appeared before Sir Charles Hall under the necessity of having to plead guilty, and were sent to seven and eight years' penal servitude respectively, one having in the interval scored another acquittal before Mr. McConnell on a charge of having plundered Dolland's, the optician, of a number of valuable instruments.

But Sir Thomas, at least during the later years of his career, showed want of strength in emergencies. Unfortunately for my clients' he tried the concluding indictments of the hardest fought case I ever had. Several bookmakers, who had suffered at their hands,

combined to bring to justice the principals of a gang of "rampers," sportsmen who, having made bets after the races were run, terrorized the bookmakers into paying up whether they had discovered the fraud or not. On the race-courses the bookmakers were at the mercy of the rampers. Some ingenious mechanical device was used to make the betting slip look legitimate though written after the race was won. It often deceives even shrewd bookmakers, but in this case it was immaterial to the rampers whether the cheat was detected or not. They relied on physical force, and would hesitate at nothing. Three men were charged in no less than eight indictments with conspiracies and demanding money with menaces. Two indictments were tried before Sir William Charley ; on the first, a conspiracy, I secured an acquittal on the ground of insufficient evidence of concert ; the second, demanding money with menaces, was a conviction. These trials occupied the whole day. The remaining six indictments came before Sir Thomas Chambers. On the first indictment he tried, I submitted there was no evidence of menaces. He allowed my objection, and, looking on betting as a fruitful source of crime, declared he had no sympathy with the bookmakers, who could take care of them-

selves. On two indictments for conspiracy the Recorder agreed with me that there was no evidence of concert and stopped both. The prosecution abandoned the sixth indictment, which involved the complete discharge of one of the defendants. The seventh indictment was for demanding money with menaces. The alleged menaces were no more within the statute than those in the case which the Recorder had already stopped, but now he had got very tired and much worried by the dreadful pertinacity of Bodkin, who prosecuted, and it was late in the day and the end of a long Session. From sheer feebleness and fatigue he allowed the case to go to the jury; conviction was inevitable after all they had heard. Out of the eight indictments seven were tried; one ended in an acquittal by the jury, the prosecution abandoned another, three were stopped by the judge, and two were convictions. The sentence of twelve months' imprisonment on the two men convicted was received by them with light-hearted indifference. It was said of one of these men that, travelling with others to a race meeting without railway tickets, he got out at Reading and, pretending to be a ticket collector, collected enough tickets for his party and then rejoined them.



Sir Thomas passed away suddenly and peacefully without preliminary illness or suffering. On the occasion, I think, of the fiftieth anniversary of his call to the Bar his friends gave him a dinner. Almost every barrister who was practising or who had practised at the Central Criminal Court or the Mayor's Court and many others were present. It was touching to see the genuine delight with which Sir Thomas received the thoroughly cordial greetings of his hosts as he walked round the room to shake hands with them. Just as he had left me Montagu Williams came up and seized both hands in a prolonged grasp. The dear old man was very busy that evening mopping his eyes. In a charming speech, in which he told the story of his career, he amusingly alluded to the defect of the lachrymal ducts which necessitated the frequent mopping of the eyes, to which as he knew jocular but not unkindly reference was often made. He possessed a fine voice, but he strictly reserved it for ceremonial occasions. In court he always spoke in low, indistinct tones; not even in the House of Commons, where I heard him, did he raise his voice above a conversational note. I was once startled by the sonorous voice in which he introduced the Lord Mayor of the day to the

presiding judge at the courts—I think it was Lord Chief Baron Kelly—and in saying grace at the Middle Temple his voice easily filled the large hall.

The appointment of a successor was not long delayed. The City anxiously desired an influential friend. The ancient Corporation had been subjected to terrible menaces; it was to be submerged in the London County Council, whose Chairman was to be Lord Mayor of London, and it was to lose its domestic tribunal, the Central Criminal Court. There was Sir Charles Hall, the intimate friend and companion of the coming King. He was prepared to accept the Recordership, but he must have £4,000 a year, a salary of which no Recorder had ever dreamt. The Corporation acquiesced and Sir Charles became Recorder.

The City has survived, even maintaining its control over the Central Criminal Court. Yet a proposal actually assumed legislative form at the hands of Sir William Harcourt, when Home Secretary, for the amalgamation of the Criminal Courts of London, Surrey, and Middlesex in one tribunal at the Old Bailey. A Grand Jury was to be charged once a month, two courts were to sit every day all the year round, and a High Court judge come

down once a month to try the cases reserved for High Court judges. The existing official judges of the Old Bailey and of the Sessions would all preside in rotation. The scheme would have secured the speedy and economical administration of criminal justice, but vested interests were far too strong and it was dropped. Yet it is difficult to imagine a more conspicuous monument of administrative folly than is now afforded by two very ornate buildings constructed at prodigious expense, and a third in process of construction to serve one common purpose, the administration of justice in the Metropolis. The most gorgeous and the most costly building, with vast and almost useless halls, containing only four inconvenient courts when five or six are sometimes required, so that judges have then to descend into the basement where apartments reasonably called the front and back kitchen have chairs and tables arranged to give them the semblance of courts. But in those apartments there are advantages unknown in the regular courts. There are windows that let in light and air, and one can hear and be heard. In the regular courts highly artistic methods of lighting make reading difficult, and highly scientific ventilation imperils health by its alternate gusts of hot and cold air, while

in one court everything, even the judge's sentence, is duplicated by an echo.

So little co-ordination is there in the arrangement of the two Sessions that the fortnightly Sessions for London are frequently appointed for the same day as the monthly Sessions of the Central Criminal Court. In one year they clashed ten months out of the twelve. Not merely is this extremely inconvenient to counsel, but it causes delay and expense, owing to the inevitable postponement of cases at one court from the absence of material witnesses as well as of counsel at the other.

In the new Guildhall at Westminster, which is used three or perhaps four days a month, the lighting and the acoustic qualities are fairly satisfactory, but the ventilation is quite scientific. The designer, however, judiciously contrived that the blasts of cold air should come in just behind the heads of the most patient and long-suffering attendants—the jury. Occasionally some independent juror complains or vainly endeavours to obstruct the draught by thrusting his great-coat into the aperture behind him.

Sir Charles Hall was in one sense a very dangerous judge; he had had very little, if any, training and experience in Criminal

Courts, and he supplemented his deficiencies by a recourse to common-sense methods, which often led him into flagrant disregard of important principles of criminal procedure. That the prosecution had to prove the guilt of the accused he sometimes boldly denied, and put upon the accused the responsibility of proving his innocence. If the accused said he was not there the retort was: "Then call witnesses to prove where you were; you have only to write to the police and they will bring your witnesses to prove your innocence." In many cases he had obviously made up his mind at a very early stage that the accused was guilty, and treated the denial of guilt or the attempt to disprove it as an insolent aggravation; but occasionally he could be converted, and then he became as unfair to the prosecution as he had been to the defence. Before I had studied his idiosyncrasies I had unpleasant moments with him; but in time, when we came to understand each other, we were on those pleasant terms which, as between judge and counsel, so largely contribute to the pleasure of the work besides facilitating it. I am happy to think I have always enjoyed the confidence and friendship of the judges before whom I have regularly practised. Once a judge, speaking to me at

lunch, said: "That is a terrible rascal you are defending, and he deserves to be convicted, but I think you will get him off." No one hearing the coldly impartial summing-up after lunch would have suspected the opinion he entertained, and which with such kind confidence he had communicated to me. On another occasion, wanting to go to another court, I privately asked a judge to let the case of a defendant on bail, charged with stealing a valuable diamond ring, be postponed. "Why," was the reply, "hasn't he had time to pawn the ring?"

I defended in one case before Sir C. Hall, in which his common sense and knowledge of the world admirably served to reduce to its proper proportions a most exaggerated story.

Mysterious paragraphs appeared in the newspapers about a society scandal. A high-born lady had been foully outraged by a society villain, who had bribed the police to screen his villainy. The high-born lady was interviewed and gave a dramatic recital of her wrongs. Her solicitor, being refused a search-warrant to recover her stolen property, consented to take a warrant for the arrest of the culprits. They proved to be anything but society personages, and the whole story was stripped of its romantic glamour. The high-

born heroine claimed to be the daughter of a celebrated scientist; when her birth did not fit in with the date of his marriage, she explained she was the child of his first wife, although it was said he was only once married. At the age of fourteen she ran away from home, because "they" wished to put her in a convent, a mode of life for which unquestionably she had no vocation. She was proved to have married an East End butcher in a name not her father's; she explained she took that name because it was the name of her faithful nurse, who accompanied her in her flight from home and the threatened convent. At the trial appeared a young man who was vouched to be her son before she married the butcher, but she repudiated him. Oddly enough, he was an attesting witness of her marriage with the grandson, by a second son, of a marquis; from this time she became Lady Blank or the Hon. Mrs. Blank, according to the mood of the moment. Her noble husband was, it was said, the inmate of an asylum. In spite of the fifty-six years to which she admitted, she was a woman of striking appearance, though her drawl and her attitudes were ludicrously affected; as a witness she was not a success, and drew from Sir Charles Hall repeated rebukes.

The society villain was a prosperous bucket-shop keeper ; when difficulties arose he took refuge in bankruptcy. It was then he met the high-born lady. She told him she expected £40,000, and skilled as he was in deluding others, she deluded him. Being an undischarged bankrupt, he arranged with her to open accounts at different banks and deposit money for him, and he entrusted her with a quantity of valuable securities. The time came when he wanted his securities ; though threatened with a revolver, she refused to restore them. She was in the habit of carrying them about with her in a bag in her clothes. The problem was to take it from her. With the assistance of his brother-in-law and a one-armed man, who earned a precarious living in the streets, a plan was arranged. A lonely house standing in its own grounds in a secluded district was rented ; the caretakers, a policeman and his wife, were persuaded to go before the new tenant's furniture arrived. The high-born lady was induced to visit this house by the society villain to see a billiard-table he wished to buy ; she was driven down in a hired brougham with the one-armed man as coachman. On getting inside she was suddenly gagged by a man, with a towel over his head,



whom she nevertheless identified as the brother-in-law. She was stripped of her clothes, some of her garments being cut off with a knife; when the precious bag fell from her she adroitly kicked it under a garden seat, the only piece of furniture in the room, where for some time it escaped observation. Having found it, the society villain wrote out a statement in which the victim was made to say she had voluntarily given up the property, but in spite of desperate threats she refused to sign it. They told her they were going to kill her and bury her in the garden. They showed her the cloth they were going to wrap the corpse in. They took her rings from her fingers and her ears. Ultimately, they left her, still nearly nude, as she described with engaging modesty; there she remained all night, not touching the food they left, because she feared it had been poisoned. Next day she got out in her damaged garments and went to the police-station; but she did not wish to charge anybody, only wanting the police to get back her property. A few days later her jewellery was returned to her, but the society villain, having got his property, went off to America, where he was arrested, and whence he was extradicted for robbery with violence. The Recorder was soon con-

vinced that the property really belonged to the society villain, and he stopped the charge of robbery; as that was the only crime for which he had been extradited he was entitled to his discharge. His companions pleaded guilty to a common assault, and Sir Charles merely ordered them to pay the costs of the prosecution. So ended the romance of the high-born lady and the society villain screened by the bribed police.

Within six months the society villain went to penal servitude for his bucket-shop frauds. The brother-in-law was convicted of a murderous assault on his aged mother-in-law, though I saved him from prison, and the one-armed man resumed his precarious living in the streets.

I defended before Sir C. Hall two stalwart gipsies, whose business in life, as it later appeared, was systematic horse-stealing in rural districts. Privately he inquired how long the case would last. I told him I was advising them to plead guilty. When put up in the dock they obstinately rejected my advice. The Recorder was watching and saw my difficulty; he very kindly sent me down a note, "You may tell your clients I shall not deal severely with them—three months." This information induced them promptly to plead

guilty. Having received the promised sentence, they left the dock with noisy jubilation, taken up by a number of gipsies in the gallery. But the convicts' jubilation was short-lived. They were recognized as the men who, caught stealing a horse in Middlesex, effected a bold and daring escape from the police-station to which they had been taken. Convicted before Sir Ralph Littler, they were sent to penal servitude for five years.

Sir Charles Hall was frequently incapacitated for work by ill-health, due, it was understood, to malarial fever contracted in India, where he accompanied the Prince of Wales, and he did not even survive to see his royal friend become Edward VII.

The new régime was completed. Sir Forest Fulton succeeded to the Recordship, and Mr. F. A. Bosanquet brought additional authority to the ancient office of Common Serjeant.

## CHAPTER VI

### SUNDRY EXPERIENCES AND IMPRESSIONS

IN the days of long sentences there was frequently what was described as "sensation in court." It was not disapproval or indignation, but awe at the blotting out from a man's life of ten, fifteen, or twenty years. There were judges who took pains to emphasize in passing sentence the gravity of the punishment they were imposing. To me at first it seemed terrible, but when I found other barristers had no such feeling I assumed it was only my own ignorance and inexperience of criminal punishments. The sentence of death was necessarily always impressive, but some judges gave it much greater effect than others. The most dramatic and impressive scene of the kind I ever witnessed, though I have never shared the interest which prompts many barristers to be present at every sensational murder trial, was the sentence of death passed by Lord Chief Justice Cockburn on Wainwright, the murderer of his mistress. The "Old Court" of the de-

molished building, with its cavern-like shape sloping steeply down from the upper entrances, lent itself to these awful scenes more effectively than the more level aspect of the New Courts. When the senior usher, who had a peculiarly sepulchral voice, with a slow, sonorous prelude of "Oyez ! Oyez ! Oyez !" commanded from the well of the court silence for sentence of death, the officers at the different doors shot the bolts with a clang to prevent intrusion. On this occasion it was nearly midnight ; every seat was occupied, the long Bench crowded with City functionaries and fashionably dressed women and the gangways tightly packed with robed counsel. The Lord Chief Justice was an artist to his finger-tips, and he possessed a voice rich in deep, mellow tones. His judgment was full of pathos ; he dwelt at length on the passionate circumstances of the poor young woman's fate. Before he came to the terrible end his voice faltered and big tears appeared on his cheeks. At that moment the scene was too impressive to be ever forgotten by any one who witnessed it. Wainwright himself, a tall, handsome man, made an impassioned speech before he was removed from the dock. The propriety of harrowing a convict's feelings before the dread sentence is passed to-day may be seriously questioned. Modern

judges are much less given to emotional display than their Victorian predecessors ; none among them approached Cockburn in the perfection of his display. Sir Henry Hawkins, who so often had to pass sentence of death in sensational cases, was too long and elaborate in his judgments, and in his hard nature there was entirely lacking Cockburn's keen emotional susceptibility. Not even in passing sentence of death did Hawkins, I am sure, ever shed a tear.

To-day there is also frequently "sensation in court" but it is of an entirely different character. When judges, in eloquent, impassioned language, sorrowfully lament the degradation of the convict's position, standing in a criminal dock, with the good character built up by a lifetime of honourable, honest work destroyed and before him a new life of great difficulty and danger, and exhort him in earnest, tearful language to be a man and retrieve his lost character by using to the utmost the fresh chance that is going to be given to him, the impression produced on those present is as deep a sensation as in the days of drastic punishments. The convict himself often breaks down with emotion, and passionately promises to do his utmost in response to the leniency shown him. I have seen jurors and other

apparently disinterested listeners moved to tears by such incidents, now of common occurrence in the Criminal Courts. It is a healthier sensation than that produced by the pronouncing of a long sentence of penal servitude and the harrowing shrieks of the poor women relatives as they were hustled out of court; it sometimes evoked sympathy where probably little was deserved. I can never forget the shrieks of a poor wife whose husband was sent to penal servitude by Mr. Commissioner Kerr for five years. He was a respectable young commercial clerk who had forged a cheque for £40 under circumstances I endeavoured in vain to impress on the learned judge; his young wife was not expected to survive her confinement, and it was to provide funds for special medical treatment he had committed the crime. I have more than once since those days appeared for young men guilty of a similar crime under not very dissimilar circumstances; they have not only not been sent to penal servitude, but they have been released on recognizances and assisted into another situation to redeem their character, and the Criminal Courts have never seen them again.

The organization of crime is sometimes very complete. The house of a licensed victualler

in a busy quarter of London was used as a rendezvous of burglars; the reports of "surveyors," as they were termed, who were ostensibly photographers' canvassers, were received and burglaries planned; the house was used as a storehouse of the plunder and the landlord himself with crucibles melted down the jewellery. Three convicts undergoing fifteen years' penal servitude gave information to the police. One night the house was watched; three men drove up in a cart and entered the bar. In the cart the police found a quantity of property which was afterwards proved to be the proceeds of a burglary perpetrated that night. Entering the house, they secured seven men, the landlord for a time escaping from the rear of the building. At the trial he turned Queen's evidence and frankly described the business of crime that had been carried on at his house with his assistance. Part of the proceeds of no less than eighty-six burglaries within the preceding six months, amounting in value to £4,000, was found, and a large collection of housebreaking implements. Mr. Commissioner Kerr was the judge; five of the accused, one of whom I defended, were sent to penal servitude for ten years, one for seven years, and one for five years. The landlord, ruined of course by the conviction, as



a reward for his assistance was spared penal servitude, and imprisoned with hard labour for eighteen months.

There is a form of crime peculiarly dangerous to its perpetrators and perhaps for that reason uncommon. It is inveigling jewellers into a trap and then with deliberate violence rendering them unconscious and robbing them of their property. I only know of three cases. The earliest was the Torpey case. Michael Torpey and his wife, Martha Torpey, induced the assistant of a Bond Street jeweller to visit lodgings in the West End, taken for the purpose of the crime, with £5,000 worth of jewellery to show them. While the husband was examining the jewellery the wife came behind the assistant and held to his face a handkerchief saturated with chloroform; the husband at once seized, gagged, and bound him, the interesting pair when he was unconscious decamping with his jewellery. The husband escaped abroad, but I think was afterwards caught; the wife was arrested in the country. She was defended by Montagu Williams before Mr. Russell Gurney the Recorder, and was acquitted by the jury on the ground that she had acted under the coercion of her husband. It was before my time, but I was told that the most potent argument in the case was her

innocent, guileless appearance seated in the dock with her fair hair hanging down her back and her infant in her arms. I have myself had experience of the potency with juries of such arguments. A husband and wife, shopkeepers, were tried at Sessions for receiving stolen property. The man's position was singular, for he had been summoned as a juror to the very Session to which he had been committed for trial ; and I contemplated transferring him from the jury-box to the dock, but the device was defeated by the police informing the officer of the court, who did not impanel him. There was no evidence against him, and the case was stopped by the judge. My defence for the wife was that she had really acted under his coercion ; it failed, but she was carrying in her arms and moaning over it a baby that yet seemed to me too bulky for its mother's arms and this pathetic pose won a recommendation to mercy that saved her from prison. The next I heard of her was that she was committed to the Central Criminal Court for attempting to murder her child, but the Grand Jury ignored the bill against her.

The second case was the diamond robbery described elsewhere, in which the perpetrators were sent to long terms of penal servitude.

The third case was the work of two

experienced American thieves—a man and a woman. They enticed a diamond merchant to their flat to exhibit some diamonds, and the man belaboured him with a sandbag until he was unconscious, and the couple not only took his stock of £2,000 worth of diamonds but stole the jewellery he was wearing. I endeavoured for the woman, with little success, to persuade Mr. Justice A. T. Lawrence that the rarity of the crime was a reason for abstaining from severity, and therefore an argument for leniency. The woman appeared to have no notion of the gravity of her position ; for when I was advising her in the dock that her best course was to plead guilty, while assenting, she insisted that I must ask to have her released on her recognizances, and she had actually prevailed on a well-known benevolent lady connected with a convent to attend ready to assure the judge they would receive her and look after her. Yet she had twenty months of an unexpired sentence of five years' penal servitude to serve, and before that had suffered three years' penal servitude for an extremely skilful robbery of a diamond necklace worth £2,000. She was sent to penal servitude for ten years. The man, besides four years' penal servitude for very adroitly abstracting from a customer's pocket at a bank a pocket-book

containing £55 in notes, had received a long sentence in America, but owing, it was said, to the practice in America of giving convicts a holiday on Thanksgiving Day, he, having obtained a revolver, held up the warders and effected his escape. Mr. Justice Lawrence sent him to penal servitude for twelve years.

Trifling pieces of evidence often secure a conviction. Here are some instances:—

A man who stole a horse drove it harnessed to a cart into the country. Being stopped from selling it, he abandoned it and the cart and decamped. In the cart was found a doctor's medicine bottle with the man's name, an uncommon one, written on it. When he was arrested, nearly a year after, he denied he was the man who tried to sell the horse. One witness only identified him after the long interval, but the medicine bottle clinched the case against him. Denial of ownership was useless, and he could not explain it.

Daring thieves entered a house, left unattended during the absence at the seaside of the family, and packed into a van the whole of the furniture. To get out the piano they removed the frame of the drawing-room window and lowered it by ropes. In their eagerness to get away with their plunder they omitted to

replace the window frame. That very evening the open window aroused the suspicion of a patrol policeman, and inquiry was instantly set on foot. Through the owner of the van the thieves and the receiver were traced. But the case against the receiver depended on a single article; everything else had been disposed of. By his own bedside, in use, was found a most remarkable bedside carpet positively identified by the plundered householder. It secured his conviction. If the thieves had replaced the window frame the robbery might not have been discovered in time to trace the van-owner; if the receiver had not yielded to the temptation of keeping for his own use the choice bedside carpet, he would have escaped conviction.

A furniture dealer, sued for the price of a suite of furniture supplied by a cabinet-maker, not only swore that he had never ordered or received it, but actually prosecuted the poor cabinet-maker for perjury in swearing that he had. He narrowly escaped wrongful conviction. Just before the trial, quite by accident, it was discovered that the dealer had sold the identical suite, on the very day it was delivered to him, to a West End shopkeeper and given him a receipt for it. Hearing of the discovery, the dealer had the audacity to visit the

shopkeeper and ask him to "lose" the receipt. This secured the acquittal of the cabinet-maker and finally brought about the conviction of the dealer and three members of his family for the perjury they had committed in their wicked charge against the cabinet-maker. I never conducted a prosecution with so much satisfaction.

Consultations and conferences are valuable incidents in a barrister's professional life; the consultation takes place between leader and junior, the conference between counsel and solicitor, though the solicitor is always, and lay client occasionally, present at either meeting. I think there is a little superstition about the practical value of these discussions. They are useful sometimes in bringing a client into a frame of mind that makes possible the acceptance of advice to plead guilty; the authority of a distinguished K.C. weakens the unwise pugnacity of a determined defendant. A judicious conference may awaken a defendant's mind to useful explanations of adverse evidence. But otherwise consultations and conferences are often vague and discursive discussions. I was once in consultation with Willis, Q.C., from four o'clock till seven o'clock; it was an ambulatory consultation, for he walked me round and round his room, discussing not merely the case but running off at

every tangent, especially when it led to moral and religious reflections ; it was very eloquent but of little assistance in the development of our case. I had very similar experience of Waddy, Q.C., who was equally prone to preaching. But my most arduous experience was a consultation with two distinguished leaders, my very good friends, which lasted a whole week. We began at ten o'clock, had a short respite for lunch, and then continued till six o'clock ; when it was proposed we should resume after dinner, like the worm I turned ; after dinner they consulted without me. Our deliberations were recorded in ample notes which each day were printed and then reconsidered ; the accumulation of printed matter was prodigious ; each of my leaders had a huge portfolio notebook with printed entries stuck in and freely annotated by hand. A learned friend, expert on an outlying branch of law, was called in to advise and his notes and summaries were added to our printed collection. No table would have been big enough for our use ; long boards were placed on trestles, giving the chambers the appearance of a workshop. It is only right to say that this extraordinary industry was not unremunerated ; I have my own opinion, probably quite wrong, of its utility. At the trial I had really nothing to do ; there was another

junior to take notes, but as the shorthand writer's note was printed and delivered to us each morning of the trial, it was not a serious necessity. A substantial fee and respectable daily refreshers did not reconcile me to the irksome task of doing nothing; I had not been trained to it. I did, it is true, call a witness and as he did not come up to his proof I gave him the needful impulse of a leading question. It drew from the learned judge the quite justifiable rebuke that I at least had had sufficient experience of that court to know better. My leaders, who had been doing all the work, rather took it as a backhanded slap at themselves, for I had been defending prisoners at that court in my humble way long before they were called to the Bar. But as Kemp, Q.C., once said to me when some one objected to his asking a leading question, "What is the good of having a leader unless he asks leading questions?" I have had more than one consultation with Horace Ivory; it was a study in succinctness. In the case of Slavin and McAuliffe I was in consultation with Sir Charles Russell; it was my only experience of him. He was thought a terror to juniors, but I prudently effaced myself and beyond being peremptorily ordered to get up and shut the door of the room I had no unpleasant



experience. I had heard Montagu Williams's description of a consultation he once had with Russell, and remembered the vigorous epithets he applied to his great leader in subsequent relief of his feelings.

In no conference have I ever had the experience of being told by a defendant that he was guilty; but on more than one occasion after the defendant, a respectable tradesman accused, perhaps, of receiving stolen property, has left my room with his solicitor he has quickly stepped back again and anxiously whispered to me, "What do you think I shall get?" In my early days it has happened to me to advise a prisoner in the dock to plead guilty, and he has indignantly rejected my advice and added that I was instructed to defend him and defend him I must. When it occurred—and it has occurred—that under such circumstances I have obtained an acquittal I have had no inclination to catch his parting glance as he left the dock a free man. I once was instructed to defend a pretty barmaid charged with stealing coins from the till. She had in plain language admitted her guilt to the landlord's wife, to the detective sergeant who arrested her, and to the female searcher at the station, and begged for mercy. The solicitor, himself an experienced police-court advocate

of much longer experience than mine, agreed with me that the case was hopeless, but the accused would not plead guilty. After the evidence had been given I told the assistant judge, Mr. Edlin, that I should not address the jury; he said he thought I was quite right and without summing up told the jury to consider their verdict. After a short deliberation they returned a verdict of "Not Guilty." I heard afterwards that during the luncheon adjournment friends of the accused had suggested to some of them that the charge had been trumped up against her because she had rejected the landlord's advances.

When trade union processions with gorgeous banners were the fashion, the branch of a certain union resolved that they must have a banner. Accordingly they appointed a collector for the Banner Fund. For weeks and months he diligently collected. There came a strike, and as the collector figured as a "blackleg" pertinacious questions were asked in vain about the Banner Fund. Then followed a summons at Petty Sessions for withholding the money under the Trades Union Act; but the justices' clerk, overlooking the amending Act, said there was jurisdiction only in the City, where the head office was, and the justices dismissed the summons. The union obtained a summons at

the Mansion House ; but as they did not suggest fraud the alderman agreed with me he must dismiss the summons, but adjourned his decision to afford the defendant an opportunity of paying up. The defendant did not avail himself of this opportunity. The union then summoned him again at the Petty Sessions. I told the justices I had twelve fatal objections. The first objection was that the matter was *res judicata*, as the alderman had decided on its merits. Unfortunately, the alderman had since died, and I had not the requisite certificate of dismissal. An adjournment was suggested, but to save expense I asked the Bench to take my next fatal objection. The Chairman thought I was reasonable. I pointed out that more than six months—the limit of summary jurisdiction—indeed, nearly two years, had elapsed since the cause of complaint. This was irresistible, and again I beat the union. Months later they resumed hostilities in the County Court. As I had long given up going to County Courts, I refused the brief for the defendant. The union were at length victorious, and the defendant, quite satisfied that he had fought a good fight gallantly, paid up, only regretting, I was told, that I had not been present to secure him another victory !

It is possible from the speeches of Lilley and

Ribton in their last days to form an idea of the style of speaking in the Criminal Courts in the old time. It must have been in a florid and grandiloquent style that the modern jury would resent. The finest exponent of the old school that I heard, still in a measure in his prime, was Digby Seymour. He used to roll out in sonorous tones a flood of ornate language. I was once his junior in defending a wine merchant for receiving a large quantity of stolen whisky. The principal witness was an accomplice ; I have never forgotten D. Seymour's magnificent and elaborate description of the warning, "consecrated by the sanction of centuries," that judges give to juries where an accomplice is a witness. But the jury convicted his client ; they were delighted but not moved by his oration. In cases of breach of promise to marry, he was an easy favourite.

Serjeants Parry and Ballantine seem to me the connecting links between the old style and the new ; there was subtilty and plausibility as well as fluency in simple language. Parry had a dull, guileless manner that effectively masked his art and captivated juries. Serjeant Ballantine, on the other hand, betrayed his astuteness in every feature ; he was a slow speaker with an effective drawl, and a master of cross-examination. My

experience of them was of course at the close of their great careers. An occasion when Parry, Ballantine, and once at least Sir John Holker, were subjected to a severe test was the annual application for licences for the Argyle Rooms and Cremorne Gardens. They dignified a farce by their fresh and solemn presentation of old arguments and their introduction of new jokes, which were always indispensable; yet the result was usually a foregone conclusion. The chair was occupied by Captain Morley, much in the manner of the president of a court-martial. Justices packed the Bench, the jury-box, even the dock and the lobbies, diligently whipped up by the applicants or by the societies that fought under the banner of purity and temperance. Bignold, the benevolent-looking and venerable proprietor of the Argyle Rooms, stood near his junior, Montagu Williams, eagerly watching the arrival of his judicial friends in obedience to the pressure he had put upon them. Some years it was a near thing, and the taking of the votes in the crowded court no easy task for the Chairman, aided by Sir Richard Nicholson—it was one of the rare occasions when he actually discharged his duty himself. The time came when the majority went over to purity and temperance; Cremorne Gardens became blocks of houses, and the

Argyle Rooms, familiarly known as "the Duke's," became first the Trocadero Music Hall, and finally "The Restaurant."

A profitable and easy form of crime was at one time very common. Some of a gang of thieves drinking at the bar would contrive to step upstairs to the licensed victualler's private apartments and collect jewellery and other valuables pretty certain to be found there.

One Saturday night the potman of a West End public-house, coming up from the cellar, saw a man coming down the staircase from the bedrooms with a big parcel under his arm ; another man was holding the street door open, apparently waiting for him, and they both left ; three other men who had been drinking at the bar followed them. The potman reported the incident to the landlord, who, rushing upstairs, found some £200 worth of easily portable property missing from different rooms. A few days later a detective took the potman to what he knew were the usual haunts of experts in this line of crime. The potman soon pointed out five men as the gang he had seen in his house. The officer, being alone, did nothing, but within a fortnight two of the men were arrested, and identified by the potman, one as the man who came downstairs with the parcel, the other as the one who was waiting at the

door. On one was found a gold ring stolen with a quantity of other jewellery from another public-house, and the finding of this ring was the foundation of another charge. Each prisoner at the police-court called a young woman to prove an alibi for the Saturday of the theft. But on the original charge, as the potman was the only witness, I feared the alibi. However, the girls gave their evidence very well, and the result was an acquittal. But one man had to be tried on the second charge, and Mr. McConnell sent the indictment to the second court to be tried by Mr. Loveland. It could not in fairness be tried by the same jury, and rather than change the jury it was sent into the other court; formerly any number of charges were tried before the same jury, but by this time that proceeding had been recognized as unfair.

While the two men were under examination at the police-court on the first charge, the landlord of the second public-house, who had been asked to come to the court, without making himself known, walked into court, heard the case, and saw the men.

Afterwards it was not surprising that he picked out from a row of men the one on whom the ring had been found as a man whom he saw in his house the night of the robbery.

The barmaid, whose ring it was, had noticed a suspicious man in the bar, but, as she had not, like her employer, seen him in the dock at the police-court, failed to pick him out. When the ring had been found on the prisoner all he said was, "That ring! The young woman must identify it—it is no good." The young woman swore to it. Besides the identification I had to account for the ring. The prisoner was not then a competent witness, but it was easy to explain that he bought it from a man selling cheap jewellery in a public-house as a present for his young woman. The jury said they found him guilty of unlawful possession of the ring. The Deputy Chairman told them that was no verdict; they must find him guilty of stealing it or having received it knowing it to have been stolen.

"Not guilty, then," said the foreman.

"Not guilty of either stealing or receiving it!" said Mr. Loveland with amazement.

"Yes," was the reply.

I asked for the prisoner's discharge.

"Oh no," said Mr. Loveland, "he is on ticket-of-leave. I cannot discharge him."

This was a characteristic blunder. I emphatically pointed out that he had no power whatever to detain the prisoner one moment. He was at liberty on licence, it



was true, but no one but the Home Secretary could revoke that licence, and then only for certain reasons, a conviction, for instance, and he had just been acquitted. The Deputy Chairman seemed surprised to find that he was powerless to punish an old convict whom the jury had acquitted. The prisoner was discharged, only, however, to be re-arrested for having failed to report himself. The charge was too absurd for even the inspector to take. He had duly reported himself up to July 10th; on August 10th he failed to report himself for the sufficient reason that he was detained in prison awaiting his trial! But his hours of liberty were few; that same week he was caught in a house in Middlesex. Sent for trial, he pleaded guilty before Sir Ralph Littler, and was sentenced to penal servitude for seven years.

A hansom-cab driver missed his horse and cab from where he had temporarily left it. In an adjoining thoroughfare a constable, who knew the prisoner was not a cabman, saw him take up a fare. He questioned him, getting unsatisfactory replies, and arrested him as he was attempting to run away. He was tried before Sir Peter Edlin for larceny of the horse and cab. To each witness who proved these facts I made the same remark, "I have no

questions to ask." At last it became too much for the prisoner, who thought he had a fool for his advocate, and he called out something. I sharply rebuked him; he burst into tears, and evidently gave up hope. Prosecuting counsel, now a metropolitan police magistrate, pointed out that prisoner had never said anything whatever in his defence; if there were any defence now it was mine and not his—which was quite true. The jury were in that condition of contemptuous indifference when they think defending counsel is trying to hoodwink them. I urged upon them that there was no evidence that prisoner intended to deprive the owner permanently of his cab; he only took it to earn fares and then turn it adrift. Gradually the jury realized that I was right, and in a few minutes the weeping and despairing cabman was acquitted.

A policeman watched two men for about half an hour loitering in a street; at length one man went into a garden while the other stood on watch at the gate. The constable rushed from his concealment on the other side of the road; the man on watch whistled to his companion and bolted; the supposed companion was seized by the officer and pushed into the garden. For five years and a half the accused had been in his present employment, and before

that for six years and a half with the firm to whom he was apprenticed. His father, with whom he lived, and his brother were in good employment. I called a fellow-workman and two friends, railway servants, who were in his company till about a quarter of an hour before the constable began to watch the burglars ; they swore he left them to go home, and his way home would be down the very street in which he was arrested. In other words the officer had pounced upon an innocent passer-by instead of one of the burglars he had undoubtedly been watching, for the house door bore marks of a jemmy. The jury at once acquitted. Yet this man, after having been remanded in custody for a week, was for another week in custody awaiting trial. It was a long time ago, when bail was rarely granted by magistrates.

Three men were indicted for a felonious assault on a constable. Two of them were beyond doubt his assailants, and they had brutally assaulted him ; but the third, whom I defended, so far from being concerned in the assault, had, as several of the witnesses for the prosecution swore, come to his rescue after the assault, and as they described it, " saved his life." Yet he was prosecuted by the Commissioners of Police, and kept in custody a

fortnight after receiving a severe blow on the forehead from the policeman's truncheon. The Common Serjeant, Sir F. Bosanquet, accepted my submission at the close of the evidence that there was no case whatever against him. I suggested that instead of having been prosecuted he should have been rewarded, and the jury agreed. The learned Judge said in his opinion it was certainly a case for moderate compensation, and counsel for the Commissioners said the recommendation would be conveyed to them. The accused, after his experience, would probably hesitate on another occasion to assist the police.

Accused persons are sometimes very successful; besides being acquitted, they recover damages for malicious prosecution. A club waiter was charged with stealing property belonging to the club, and with embezzling money paid to him by members. At his lodgings were found several articles bearing the name of another club, where he had previously been employed, and from whence he had been summarily discharged. There was no real, direct defence, but the evidence for the prosecution was largely documentary, and the club secretary, a pompous, irritable man, quickly lost his temper under cross-examination. The jury acquitted. The accused brought an action

for malicious prosecution. The defendants moved the case to the Westminster County Court, where, before the venerable Judge Bayley and a jury, in spite of the efforts of an advocate, who afterwards attained celebrity, the plaintiff got a verdict for "the amount claimed." And the solicitor had only claimed £50 with an additional sum for wages in lieu of notice! I need not dwell on the poignancy of his regret when he saw that the jury would quite as readily have given £150 if it had been claimed. Not long after the successful plaintiff was at law again. He had got employment at another club, and an admiral having had occasion to find fault with him, and being met by insolence, summarily chastized him. I settled the pleadings of an action for assault, but hearing no more of it, I suspect, from the letters I read, the gallant officer preferred to compensate his enemy rather than fight his action. Some time later I again saw the hero of these proceedings arrayed in a gorgeous livery with knee-breeches and white silk stockings. He was coffee-room waiter in a club, during its short life, much used by barristers. His recognition of me was at once respectful and grateful.

In another case I successfully defended a man charged with stealing a bag containing £45 from the pocket of an old dealer at a

“ knock-out ” auction. The victim felt the hand in his pocket and seized it, but too late to prevent his bag from being passed to a confederate. The man brought an action against his unhappy victim and recovered £50 damages!

In a third case of acquittal a young man, who used plush in his work, was said to have handed in a fictitious order on the faith of which the prosecutor delivered a bale of plush to him. He recovered £100 damages in an action tried before Lord Russell.

Trade firms often allow their staffs to make purchases from stock at cost price. A man, head of the forwarding department of a company dealing in soaps and scents, had come to them after fourteen years' service in another business firm. In his previous firm he had made such use of the privilege of staff purchases, that he really was carrying on a small retail business in the goods, and even after he left continued to make staff purchases. In his new firm he did the same thing.

A new manager gave him in charge for stealing the company's property. At his house were found some nine pounds of soap ; he explained that he had receipts for some of it, and the rest he was going to pay for on the following pay day. In his jacket pocket was found a cake of soap. This, too, he was charged with steal-

ing, although he declared he used it for washing his hands after work, and it was in fact partly used. Two packers were also charged ; in their possession was found some £30 worth of soap and scent. They pleaded guilty, and were summarily sent to prison ; the head of the department was discharged by the magistrate. His solicitor at once wrote threatening an action for malicious prosecution. The company changed their solicitors, and opened a fresh campaign against him. Not content with charging him with stealing other soap and scent on many different occasions, they preferred again charges in respect of the goods as to which he had been discharged. They did not even omit the half-cake of soap found in his pocket. The two convicts were interviewed, and very incriminating statements were got from them. This time the accused was sent for trial.

The Chairman, Mr. McConnell, practically told the Grand Jury to throw out the bill, but they did not take his hint. Then he suggested that the prosecution should be withdrawn, but they were determined to proceed at all risks ; nothing, indeed, had been spared to secure a conviction. I defeated an attempt to get it tried by the Deputy Chairman, from whom they expected more consideration. At the last moment

pressure of other work compelled its being sent into the second court. The prosecution could not understand my patience and equanimity. I had learned that Mr. Loveland fully shared the Chairman's view of the case.

In spite of attempts to wriggle out of it I fixed the prosecution with repeating the charges the magistrate had dismissed. It illustrated the ineptitude of the prosecution, for they had ample material without incurring the prejudice of repeating a defeated charge about a very small quantity of property. Out of the five indictments to choose from they selected one on which the convicts could give no evidence. I objected to any evidence that did not touch the dates in that indictment, and the Deputy Chairman allowed my objection. The convicts consequently were not called at all. Without the convicts an acquittal was certain.

A number of customers of the accused proved frequent purchases from him. The case for the prosecution was that no entries could be found in their books of payments for these goods by the accused. This would scarcely have been sufficient if their book-keeping had been perfect. Cross-examination of the manager showed that the mode of business was of the loosest possible character. Books were produced, but my opponent made no use of them ;



perhaps, from excess of caution, I let them alone. But one clerk brought a book tied up in paper; he was not even asked to open it. I could not resist the temptation. "Cut the string," I said, "and open the parcel." The boldness was well rewarded. There were scores of entries without any purchasers' name, many without any specification of the goods. No one could say that these entries did not relate to the accused's purchases. And the manager had admitted he made many purchases and paid for them without any entry.

The jury, without a moment's hesitation, returned a verdict of not guilty. Soon after the accused brought an action against the company, which they settled with an apology, £100 damages, and his costs.

Two defaulting rate-collectors met with very unequal punishment. They were both employed in the same borough, and I was instructed to prosecute by the borough authorities. By artful manipulation of the rate-books they had been able to prevent detection, and for a considerable time had systematically misappropriated the rates paid to them by the ratepayers. One was apprehended, but the other, learning of his colleague's arrest, absconded to Spain. The arrested collector was brought before a magistrate who was a singular compound of shrewd-

ness and impatience, and whose procedure was of the rough-and-ready type; it was quite idle for me to attempt the methodical proof of the case; he became furious at any effort to thwart his view. When three simple embezzlements were proved he declared it a waste of time to prove any more, and sent the case to the London Sessions. He pleaded guilty before Mr. McConnell, and his counsel told a pitiful tale on his behalf; illness, misfortune, and the evil influence and example of the colleague who had absconded were the causes of his downfall. The kind-hearted and emotional Chairman was deeply touched, and, expressing his sorrow at the severity of the sentence he must pass, ordered him to be imprisoned for seven months in the second division.

The other collector, the evil influence and example, thought it better to come back from Spain and face such severity. But his case came before another magistrate, who let me have my own way, and in the course of several long hearings I proved thirty-five cases of embezzlement, amounting to £3,000. Furthermore, in view of its gravity, I successfully urged that the case should be sent to the Central Criminal Court. There it came before a learned judge of sterner stuff than Mr. McConnell. The same counsel appeared for the "evil influence

and example," but the fresh pitiful tale did not move the learned judge, and the prisoner was sent to penal servitude for three years. He must have regretted leaving Spain.

Four very young men entered a large house during the absence at the seaside of the family, carrying off some £400 worth of plate and jewellery. Straightway they went with their booty to a lady who was dutifully carrying on the business of her husband during his detention in penal servitude for receiving stolen property; she kept a shop and a stall. The thief who sold the plunder concealed from his comrades the price he obtained, and they all quarrelled, making accusations against each other and against the receiver. The lady and her daughter, a girl of seventeen, were consequently both arrested. The mother admitted that she had bought from a stranger at her shop a few knives and forks, just about the number she probably knew had been actually traced to her; but the daughter, in another room, said she had bought them herself from a man in Petticoat Lane for her own use, as she was about to be married. A verdict of guilty was inevitable, but it was accompanied by a recommendation to mercy for the daughter. I had been instructed that the mother was on the point of being confined, and I privately

mentioned the fact to the learned officer of the court ; but he, misunderstanding me, informed the judge that it was the daughter who was in this interesting condition. When, after the verdict, she began to cry, the judge kindly told her not to disturb herself, and directed that she should be instantly discharged. After the thieves had been sentenced the mother was put forward, and I asked that sentence might be postponed, and that she should again be allowed out on bail until her child was born. The mistake was then discovered, but the daughter had already gone away. The judge acceded to my request, and the mother was released. Next Session, a month later, it was reported that her delivery was hourly expected. In the following month a police-officer said she had been seen in the street, and she was ordered to attend the court next morning. She duly attended, with a medical certificate that her confinement was close at hand. No one troubled any more about her. She had never been in custody, and the medical officer saw no reason to doubt her word. It was an ingenious device for defeating justice, which by chance had succeeded in saving her daughter as well as herself.

The rejoicings of lucky prisoners are always untimely and sometimes disastrous. When

acquitted prisoners clap their hands or shout with joy it suggests to the jury they have made a mistake, which is very prejudicial to the next prisoner they try. Once a prisoner suffered twelve months' imprisonment for the exultation of his friends. I had advised a young man charged with a petty theft to plead guilty; he had undergone several terms of imprisonment, but the last, twelve months, had expired three years ago. He came before Mr. McConnell, who was very ill, but had just sent me a note saying, "If I am snappy, pardon me and blame the lumbago." I urged the prisoner's earnest and successful endeavours during the past three years to earn an honest livelihood. Mr. McConnell gave him six months. Immediately there was a shout of exultation from the gallery. "Bring that prisoner back!" cried the Chairman—then worse than "snappy." "I recall that sentence and direct further inquiries. I saw his two friends in the gallery."

It was ascertained that he had quite recently undergone another sentence of three months. His sentence was increased to eighteen months.

## CHAPTER VII

### THREE REMARKABLE WOMEN

#### 1. KEY REGISTER FRAUDS

EDITH MARION JAMES was only twenty-one, an orphan, evidently of good birth and education, alone in the world, as it appeared, and apparently under no one's influence. Yet for some years she had been continuously carrying on a profitable and ingenious fraud. She had originally been employed as a canvasser to a Key Insurance Society, but was discharged, it was said on account of dishonesty. To her experience in that office was due her system of fraud. She took a small office in the City, had some receipt-books of the "Key Register" printed, and thus equipped she canvassed all over London for insurances. The office was necessarily nearly always shut, for the "Society" consisted only of herself; in one name she was secretary, in another canvasser. Her success was astonishing; her principal victims were business men whom she easily duped by her elegant and refined appearance. She began

by saying she had called for the renewal of the key insurance ; if, as usually happened, the victim's keys were not insured, she at once explained the advantages of her office. It supplied a tablet for holding the keys bearing a number corresponding to the number on the register and offering to the finder a reward of five shillings on restoration to the office ; the office further insured up to £15 against the loss of the keys and consequent damage to locks and a policy of an Insurance Company was part of the bargain. The amount of premium required varied according to the position of the victim, ranging from one to four guineas with variations of insurance for a year, seven years, or for life, which she explained meant, according to the office practice, twenty years. If the victim happened to have already insured his keys in some office, she at once said that was her office and asked for payment of the premium ; one victim was insured in the National Safe Deposit, 1 Queen Victoria Street, for which she promptly declared she was acting. When the victim, a trifle incredulous, remarked that the National Safe Deposit was at 1 Queen Victoria Street, while the address on the receipt she had given was 11, she explained that their key business had grown to such an extent that they had had to open a special

office at No. 11, and the incredulous fit was at once cured. To some one else she explained that her Register Company had bought up the one in which the victim had been insured. To a third she explained that her Society was guaranteed by the Ocean Company; this was a young man whose susceptibility to the lady's blandishments was struggling with the suspicion and distrust of the business man, for he wanted confirmation of her word. With brilliant daring she pointed to the telephone, inviting him to inquire direct, but she adroitly added that a gentleman who had doubted her did telephone and he looked very small afterwards. This was too much for the victim; he promptly paid up and even recommended her to some friends, who were also victimized. When he had discovered the fraud he chanced to meet his deceiver in the street and good-humouredly remarked to her:—

“Well, you have taken us all in. I don't mind my guinea, but I am sorry you did my friends.”

“What do you mean?” was her indignant reply. “Don't you know what you say is libellous?”

Complaints were made to the police and she received a caution but to no effect. She was then prosecuted, but discharged with another



caution by a sympathetic alderman. She was again prosecuted and committed to the London Sessions for trial, but Mr. McConnell had not the heart to believe in fraud on the part of such an attractive young person, and the case was stopped. Her next appearance in court was to charge a somewhat hot-blooded young foreigner at a merchant's office with behaving improperly to her when she was canvassing for her key register. He was convicted before the Recorder, Sir F. Fulton, of a common assault and fined £50. After a lapse of time she was summoned at the Guildhall, at the instance of the Safe Deposit Company, upon four cases of fraud, committed to the Old Bailey, and allowed out on bail. While awaiting trial she resumed her canvassing and was arrested on a warrant for four other cases, at the instance of the Ocean Insurance Company. It was afterwards discovered that on the very afternoon she was arrested she had obtained four guineas from the daughter of a bank director by the boldest of all her deceits. Introduced to the director's daughter, who was looking after his affairs in his absence, she said the gentleman's insurance was due that very day. The daughter knew nothing about it and inquired if it could not wait till her father returned. "Certainly," replied the accused, "but the policy will

have then expired, and six guineas will be necessary for a fresh policy." Rather than incur blame for such expensive caution, the lady at once drew an open cheque for four guineas payable to Mr. M. E. Henson, the secretary. The accused hastened to the bank, on the way turning the "Mr." into "Miss," and cashed the cheque. The victim thought she had done wrong and sent to stop the cheque—too late. Her father had never insured his keys at all.

The trial lasted a day and a half. In frequent conversations across the dock I had good opportunity of appreciating the young woman's keen intelligence and self-composure. She was anxious to go into the witness-box; it was obviously the best chance of making an impression on the jury. She gave her evidence with amazing coolness, and readily baffled cross-examination by her ingenuous admissions of the most awkward positions.

"Why did you alter the cheque from Mr. to Miss Henson!"

She replied with gentle surprise:—

"Because I am not a man."

"Why did you use the name of Henson as secretary?"

"Because it would not look well for the canvasser to be also the secretary."

My argument to the jury was that the key

insurance business was a fantastic notion and might well be carried out with very little office equipment, and a young woman not trained to business might well make the mistake of venturing such a scheme ; but where I had the strongest ground was in the contention that she had no intention to defraud. This was shown by her persistence after cautions and prosecutions. Her frank admissions in the witness-box demonstrated that she had no consciousness of anything wrong ; she was not betrayed into false explanations of her unbusinesslike methods. It was not what they, as business men, might think of her intention, measuring it by their own worldly wisdom, but what was the intention of a young woman not trained to business. In spite of a formidable summing-up the jury only convicted her on the case of the bank director's daughter, and could not agree about the other seven cases.

The accused had made an impression even on the learned judge, for he was quite pathetic in his reference to her good breeding, education, and intelligence ; but he sentenced her to twelve months in the second division.

Her composure then broke down and she was taken away in a swoon—not because of the sentence, for on the previous day, in answer to her inquiry what I thought she would get,

I had told her she was in peril of twelve months—but two days' trial was more than her self-control could endure.

The poor girl's end was tragic. A few months after her release from prison she was arrested in the garb of a man for similar frauds perpetrated in the North of England. She was being conveyed by train to Stockton handcuffed to a constable. On approaching the station she jumped out of the carriage, dragging the officer with her; she succeeded after a fierce struggle in getting under the carriage and the wheels passed over her, inflicting injuries which soon proved fatal. At the hospital her sex was discovered, and by her finger-prints she was identified.

## 2. CHICAGO MAY'S VENGEANCE

The story of Chicago May was sensational. A man, who gave the name of Smith, and Chicago May were indicted for shooting at a man with intent to murder him. All three were people with a past of no ordinary character; I had been more or less concerned at different times for all of them. Chicago May I defended in the previous year before Mr. McConnell at the London Sessions on a charge of robbing a gentleman and had little difficulty in securing her acquittal. Smith a few months

before I prosecuted on a charge of house-breaking; the circumstances of the case and the instruments he used showed him to be no commonplace criminal. Nothing was known about him; all the information he vouchsafed was that he was Mr. Smith of Nowhere, but he had an accent which betrayed an oversea origin. He pleaded guilty before the Chairman of the London Sessions; at the suggestion of the police I applied for postponement of the sentence to give him time for communication with the New York police. The application was granted; next Session the prisoner handed in a written statement and, after reading it, the learned Chairman ordered him to be released on his recognizances to come up for judgment when called upon. The victim of the attempted murder was a man who had just been released, defeating extradition proceedings. He had been repeatedly convicted in America and in France. In 1891 he made the acquaintance of Chicago May. He had recently been married in England; she had just come from America after being married to a young man of means whose family were glad to get rid of her at any cost. She was a remarkably handsome woman of Irish birth; tall and well-proportioned, she had a mass of auburn hair with full, ruddy face and eyes that

betrayed the passion and strength of her character. Men became infatuated with her and, either voluntarily or under threats, parted with large sums of money. The police described her practice of putting up at fashionable hotels and inveigling suitable victims into compromising situations and then levying blackmail.

Soon after their meeting they went to Paris. There her associate and another man carried out a daring robbery at the *American Express* office ; they gagged the caretaker, blew up the safe with dynamite, and escaped with a considerable sum of money. Chicago May and another woman, at one time her servant, Mrs. Purple, returned to Paris at the man's request to help him and his confederate, then in custody ; but the police arrested both women as being concerned in the crime, although Mrs. Purple was soon discharged. At the Seine Assizes the two men were sentenced for life and deported to Devil's Island off French Guiana, while May was sentenced to five years' imprisonment, being released at the end of three years.

Something was disclosed of the horrors and atrocities of the penal settlement at Devil's Island by the memoirs of Henri Rochefort and by the trial of Dreyfus. May's associate, a

bold and determined man, with two others, escaped from that terrible island in a boat. There was a suggestion, upon which I cross-examined him, that for his own safety he shot the other two men. This he repudiated, though neither man survived the escape.

After the usual perils he reached England and renewed his acquaintance with Chicago May. Together they went to Aix la Chapelle, but his attachment had cooled ; in consequence, he said, of her exploits at the hotel they separated, and he left her taking the baths and returned to London. Not long after, while he was visiting Mrs. Purple, Chicago May came in. The police had recently made a raid on Mrs. Purple's house and matters were somewhat disturbed. There was a quarrel that night between May and the man from Devil's Island. He was going to Milan, in reference to a certain jeweller's shop, I suggested, but he repudiated any such wicked design, and he refused to take May with him. Whereupon she told him she would betray him to the police, and he would be sent back to Devil's Island to die like a dog. He sneered at her threats ; she retorted that if she could not do him that way she would do him another way. Mrs. Purple overheard this significant quarrel and subsequently disclosed it in court.

May at once informed the police that the fugitive was in London. It was at this time I defended her before Mr. McConnell. A very astute and experienced officer, known to me for years, a man who rendered very valuable public services, the late Chief Inspector Kane, displayed what was then an unaccountable interest in her case on the part of an officer known to be concerned with international criminals of high degree. He evidently was not grieved at her release. It was he who in the public interest helped her to wreak her revenge upon the lover who had rejected her. He was arrested and his extradition was duly ordered by the magistrate at Bow Street. There was an appeal to the King's Bench on the ground that he was a British subject. This defence had already been raised unsuccessfully on his behalf. In 1887 he was arrested for a crime committed in France, and Baron Huddleston ordered the issue of his English nationality, to be tried by a jury; they found it "not proven"; he was surrendered to the French Government and sentenced to ten years' imprisonment. He may well have dreaded the result of this fresh appeal. For nearly fourteen months he remained in Brixton Prison awaiting the appeal owing to extensive inquiries in America. During that period of dreadful sus-



pense he did not forget Chicago May nor that she was his betrayer. Mrs. Purple was said to have told her that if he ever came out he would throw vitriol in her eyes and blind her. Chicago May did not doubt it. That he had some such intention at that time was beyond question, and as one witness, an associate of these people said, it was common talk what he would do to her when he got the chance. But nobody thought he would get it. At this time Mr. Smith of Nowhere was in Brixton, and in the chapel—they were both Roman Catholics—they got into communication. Smith was indignant at May's treachery, called her foul names, and said she deserved to have vitriol thrown over her. When Smith was released he made his way to Chicago May and told her that her old friend intended to vitriol her. A letter May afterwards wrote, which was stopped by the police, threw further light on their meeting: "This fellow Smith was the one he got to throw vitriol over me, so I lost no time in turning the tables."

But the unexpected was destined to happen. The fugitive from Devil's Island may well have despaired of escaping from that terrible place, and in consequence sought to wreak his revenge by the hand of another. The court of King's Bench made the rule absolute for the discharge

of the fugitive on the ground that the voluminous inquiries in America established that his father was and had remained a British subject, and that accordingly the prisoner was not liable to extradition.

Free at two o'clock in the afternoon, the released fugitive straightway repaired to the flat of Mrs. Purple. Next day, Saturday, they were visiting their usual haunts near Leicester Square; half an hour after they left one of these places in came Smith and Chicago May. It was then the witness I have referred to told them the released fugitive and Mrs. Purple had not long left, adding, "It was lucky for you they didn't run up against you." The released fugitive and Mrs. Purple walked up Shaftesbury Avenue, calling at one or two places, and at about half-past eleven were in Bernard Street, Russell Square. Mrs. Purple momentarily left her companion, and a hansom-cab drove up. In the cab the released fugitive saw Chicago May and a man who proved to be Smith. He heard her call out, "There he is!" May jumped out on the offside and ran across the road, crouching in a doorway. Smith from the step of the cab fired a revolver, and on the pavement discharged four other shots, the second hitting his victim in the foot. There

was an outcry. Smith ran off, followed by a constable, at whose head he levelled his revolver, but all the barrels had been discharged. He told the officer, with an oath, it was lucky for him. After a violent struggle he was secured. Meanwhile the wounded man had limped across to May.

"So as you could not succeed in sending me back to Devil's Island, you would stoop to murder me, would you?"

"Yes," she replied, "and I'm sorry we didn't succeed."

He told the police to take her. She was carrying a bag, containing an open knife. At her lodgings was found a box of cartridges fitting the revolver Smith had fired.

At the station May wrote to a friend the intercepted letter; the first line was suppressed, Mr. Justice Darling gravely asking me if I wished it read. It ran, "Retain Purcell, or I am done."

It was a terrible case to defend, though it had ample ingredients for a good fight. I carefully worked it up on the line that May, honestly believing she was in danger of vitriol, enlisted Smith in her service for her protection. Not only had I against that theory, her own desperate words to the wounded man, but the further facts that neither the wounded man nor Mrs. Purple carried any vitriol or any

weapon, that they were alone, and that May and Smith, driving away from the direction of their homes, had told the cabman to stop at a street which the victim and Mrs. Purple would certainly pass to get home. Everything pointed to a premeditated and unprovoked attack.

I cross-examined the prosecutor to show that he had aggrieved May by refusing to take her abroad with him, and that, being much attached to him, his refusal had goaded her into the revenge of betraying him. He admitted that he had written to the Home Office, saying he was the victim of a woman's vengeance. I brought out such details as I could of his career to demonstrate that he was a daring and desperate man. Such a man so betrayed might well be expected to contemplate a terrible revenge; but he said, probably quite truthfully, that he was really grateful to May for her betrayal. It had actually done him a great service, since now through her action he had been declared to be a British subject. So long as he remained in Great Britain he need have no fear of the French police and the Devil's Island. But what his feeling was before the court decided in his favour was a very different matter. I did what I could, winning unusual praise from Mr. Justice Darling, who from first to last treated me in a way that I had not

for a moment expected. In summing-up he spoke of "my ingenious defence" and "cleverly argued defence"; "for," he continued, "whatever may be the result, ingenious defence and cleverly argued defence it certainly was." Then he devoted himself to following all my points seriatim and refuting them.

The jury convicted without a moment's hesitation. The learned judge said he believed that May was honestly in terror of vitriol, and he should make a distinction. Smith was sent to penal servitude for life, and poor May's distinction got her penal servitude for fifteen years. Smith made a hideous scene of blasphemy and violence, while May, bowing gracefully, gently stepped out of the dock apparently unmoved. She was a woman of grit and character worthy of a better career, and played her part finely to the last.

An anecdote of my early acquaintance with the learned judge is perhaps worth relating. Returning along the Embankment one afternoon from the courts at Westminster, Darling asked me if I had read the Recorder's charge to the Grand Jury in the sensational murder of the day. I replied with priggish self-satisfaction:—

"No, I never read about crimes. I am not interested in them."

Presently, ardent politician as I was, I asked him if he had read Gladstone's speech of the previous night.

"No," was the dry retort. "I never read political speeches. I am not interested in them."

Within a few years he was Member for Deptford, and I was defending alleged criminals at the Old Bailey. From that day, I never met him until I saw him on the Bench at the Old Bailey in the case of Chicago May. I still remembered his retort, and quite unreasonably, dreaded how he would treat my defence, which made his compliments all the more gratifying. He was one of the two speakers I have heard possessing the power of keeping an audience convulsed with laughter. The other was Dowse, the Attorney-General for Ireland, afterwards Baron of the Exchequer in Ireland. At the London University Union, of which I was Secretary, Darling, I think at my request, opened a debate on the topic of the day, Darwin's "Descent of Man." There was a large audience, including many ladies and gentlemen, friends of members, collected in one of the lecture-halls at University College, and Darling kept them continuously writhing with laughter, while he himself preserved a countenance of the demurest gravity. I have

seen Dowse similarly swaying the House of Commons. But the two men were as utterly unlike in their humour as they were in their appearance.

### 3. THE TERROR OF LONDON JEWELLERS.

The practice upon jewellers and curio-vendors of the sleight-of-hand trick called "maceing" is a speciality in which Italians excel. In an earlier chapter I have described the skill of one Italian. I have defended and prosecuted many others. One devoted himself to valuable bronzes. No less than four bronze figures, about a foot high, were traced to him. They had all been missed after his visits to the shops of the owners. But no Italian ever approached the skill and success of an English lady. For three years she was the terror of London jewellers. Again and again she was reported to the police and described without checking her operations.

Her method was always the same. She asked to see diamond pendants or diamond rings. They were to be presents to a hospital nurse or wedding presents or testimonials being got up for somebody. She gave imposing names of persons concerned, and occasionally referred to Royalty. The jewellers all agreed that she exhibited remarkable knowledge and

discernment of precious stones, and engaged them in conversation about jewellery for an hour, or even more. The result was always the same. Sooner or later after she left valuable property, ranging in value from £30 to £250, was missed.

Seven separate cases were proved against her. In one case she victimized the same assistant twice within eighteen months. On the first occasion she abstracted a brooch worth £90. The assistant reported the theft to the police. Twelve months later he was summoned to the shop of another jeweller to see a lady whom they suspected of being the much-sought-for thief. He failed to recognize her. Only six months after this incident she visited his shop again, and was again served by him. This time she stole a diamond and sapphire pendant worth £250.

The theft charged in the indictment that was first tried was committed nearly three years before. The jeweller after her visit missed a diamond ring worth £60 and a pendant worth £45. She actually had herself photographed in evening dress, wearing upon her bosom this very pendant. This photograph, the work of a well-known artist in photography, was taken some four months after the pendant was missed. Nine months later the lady pawned



the pendant with a pawnbroker to whom she was well known ; in the following year she herself paid the interest on the advance.

This photograph had considerable publicity. It was shown by the police to the assistants of yet another jeweller who three months before had missed a pendant worth £30. They recognized the photograph as that of the lady after whose visit the pendant had disappeared. This brought about her arrest, and her house was searched. A small case was found, identified as the case of a diamond pendant, value £44, stolen from still another firm two years before.

The discovery of the pendant at the pawnbroker's was due to the accused. Upon being charged with stealing it she wrote to the pawnbroker, suggesting that probably that was the pendant she was accused of stealing. The police intercepted the letter, and took the owner of the pendant to the pawnbroker. He at once identified his property ; it was the stolen pendant of the photograph. The ring, worth £60, stolen at the same time was never traced.

Two assistants who had served a lady on the day the articles were missed identified the accused, but the interval of three years affected the testimony of both, while one had been

shown the photograph with the stolen pendant on her bosom before he identified her.

But identification was of little importance when she was proved to have been wearing the pendant four months after it was stolen, and had afterwards pawned it and later paid the year's interest on it.

I had the difficult but extremely interesting task of defending her. She was admitted to bail, and in conference I had many opportunities of appreciating her keen intelligence. She was a refined, well-bred woman, gifted with acute perception and ready plausibility. Her defence to the charge first tried deserved the success it won.

It was an admirable explanation, fortified by a sound alibi. I thought the alibi should introduce the explanation, which, though admirably meeting the difficulty of the case, was a little singular, if not improbable.

The alibi was that she was some ten miles away from London on the day of the theft. She kept a diary of her movements. From this it appeared that for every day with one exception for a month covering the important day she was engaged in collaboration with an artist, and a record was kept on their work of the time spent on it. On the one day excepted she was engaged at the house of a General.

Both the artist and the General gave evidence. This alibi was strong enough to 'rebut the feeble evidence of identification by the shop-assistants. But it did not account for the possession of the stolen pendant. The accused gave evidence that she was present at certain charitable bazaars and entertainments, and produced programmes. There she several times met a lady who often talked about jewellery, and said she had put some up for sale in a bazaar. This lady's visiting-card was produced and a programme on which she had pencilled an appointment. The existence of this lady was proved by a wealthy lady friend of the accused who had seen her at bazaars. One day, shortly before the taking of her photograph, this lady offered the accused some apostle spoons, a watch, and the diamond pendant. She bought the pendant. In time of stress she pledged it, intending, when able, to redeem it, and consequently paying the interest at the end of twelve months.

Pledging the pendant where she was known and paying the interest when due after having herself photographed with it on her bosom were strong arguments against her guilt.

She gave her evidence with quiet simplicity and directness, but she was subjected to a cross-examination which was unfair if not

illegal. It was before the days of the Court of Criminal Appeal, and prosecuting counsel had not acquired the moderation they now exhibit.

Nevertheless, the jury acquitted her. Next session the solicitors briefed a distinguished K.C. to lead for the prosecution. The indictment then tried charged the stealing of a pendant, worth £44, just over two years before. The identification of the assistants was weaker than in the other trial, but the case found at the accused's house was identified by its number and other marks as the case in which had been the stolen pendant. Unfortunately for her, she gave the police no less than three inconsistent explanations of how she became possessed of this case. The third explanation was that the bazaar lady, who sold her the pendant enclosed it in this very case.

The unfortunate woman fared even worse in cross-examination than in the previous trial. One matter to which I could not object without intensifying the mischief the learned chairman told the jury to dismiss from their minds, but pertinently adding how they were to do that he did not know.

I had to determine the oft-recurring question whether I should call witnesses. The solicitor did not give me an encouraging

opinion of them. Some proved a very feeble alibi, others were to give what was not evidence ; the only witness who was important, and upon whose absence the learned judge, with the obvious agreement of the jury, specially commented, was one whom, for reasons outside the case, it would have been fatal to call. I decided not to call them.

The jury, after an absence of thirty-five minutes, found the prisoner guilty. During their absence and on their return she kept frantically calling for her witnesses. Her wrath with me then equalled her gratitude for the result of the first trial.

The police said there were six or seven other cases besides the seven proved against her. She was sent to prison for twelve months.

## CHAPTER VIII

### SIR PETER EDLIN AND HIS DEPUTIES

WHEN I first visited the Middlesex Sessions Mr. Peter Edlin, Q.C., was the Assistant judge, as the President of the Criminal Court was styled, and Mr. Serjeant Cox was the Chairman of the second court. The Assistant judge was not Chairman of the justices, and had nothing to do with their administrative or licensing work. The Middlesex Sessions Act gave him the right to appoint the Chairman of the second court, who was paid five guineas a day. It was a very bad system. It was not even a permanent appointment, and the time came when the Chairman at one Session did not know whether he would be Chairman at the next Session ; he was at the mercy of the humour of the moment of the Assistant judge. The payment by the day was a strong temptation to waste of time. Mr. Serjeant Cox made an enormous fortune by his marvellous newspaper ventures, but he diligently discharged the duties of Chairman of the second court for many years. He was

an amiable, kind-hearted, courteous judge, but little able to control the turbulent Bar that then practised at Clerkenwell. His court was at times a perfect bear-garden. On one occasion during the trial of a case of larceny of live pigeons, Richard Harris, who defended, purposely opened the hamper and let the birds fly about the court. After a wild chase on the part of ushers and police, the pigeons took refuge on the canopy over the judge's seat. Mr. Serjeant Cox took it quite as a matter of course, and rather enjoyed the scene. He was very deaf, and heard little of the evidence. He summed-up from his copy of the depositions, and was often interrupted by objections that the witnesses had said something quite different. This newspaper cutting illustrates what used to happen :—

When Mr. Sergeant Cox came to sum up he was directing the jury that the prisoner Smallbone might probably have been at the horse's head when the tea was stolen, and must have seen what occurred.

Mr. Besley : " I interfere with you, my lord, and I say you have no right to put the question in that way."

Mr. Serjeant Cox went on.

Mr. Besley (emphatically) : " I will be heard, my lord, go on as your lordship may. You are assuming——"

Mr. Serjeant Cox : " No, I am not ; sit down, sir, and understand that I am assuming nothing."

Mr. Besley : " It is of no use, my lord. I shall stand

here and argue the point, with all respect. It is not competent for your lordship to assume that which has not been proved in evidence. It has been shown that when the property was stolen Smallbone was somewhere else, and now you, my lord, are putting it that he was at the horse's head."

Mr. Serjeant Cox : "No, no ; I am not ; I am saying that whoever was at the horse's head must have seen the theft committed." (To the witness) : "Now, don't you think that any one standing, like Smallbone, at the horse's head would see the theft committed ? "

The witness (a carman's boy) : "No, sir ; nobody could see that, because there was no one at the horse's head then at all." (Great laughter.)

The Jury, after some further passages of the kind indicated above, acquitted both the prisoners.

Although he followed the standard of extreme severity of sentence that then prevailed, he took quite an exceptional course with young persons and first offenders. He constantly released them on their own recognizances. Sir Howard Vincent was then a Middlesex justice, and I believe he took the idea of his First Offenders Act from the wise and beneficial practice of Mr. Serjeant Cox. Defenders of prisoners were eager to get their cases into the second court, and that eagerness existed not only when Mr. Serjeant Cox was Chairman, but was equally keen with his successors, Mr. J. Dunnington Fletcher, Mr. Warry, and Mr. Loveland. Sir Peter Edlin, with rare industry, read the judge's



copy of all the depositions. On the front page was printed the word "court" with a blank before it. With his own hand he wrote "first" or "second." But his appetite for work was inordinate; scarcely a tenth of the cases were marked "second court." He thought nearly all were of sufficient importance to be tried by him. In fact, though he dealt with all pleas of guilty, he tried very few cases. It was often late when he took his seat, and after sentencing a few prisoners who pleaded guilty, he would take a trial; if it were defended by counsel it lasted the rest of his day. The result was that far more cases were tried in the second court than before the Assistant judge. The proportion of acquittals in the second court was very high; before the Assistant judge they were quite rarities. Mr. Fletcher deservedly enjoyed great popularity; he was no less kind and courteous than Mr. Serjeant Cox, but, though he did sum up the evidence as it was given, he was perfectly fair and discriminating, and defending counsel had nothing to fear. His health was never robust, and he finally broke down. It was pathetic to watch his struggle to distinguish things; in his stammering way, which grew worse as he grew weaker, he would direct the jury that the question was whether the prosecutor stabbed the prisoner or stole

the prisoner's watch, according to the nature of the charge. Sir Peter Edlin appointed Mr. Warry, Q.C., to succeed him. It was in his time that the appointment depended upon the humour at the moment of the Assistant judge. Mr. Loveland was assiduous in his attendance as a justice, and carefully studied, not only the judicial methods of the Assistant judge, but his peculiar temperament. He became a great favourite with him, and whenever there was trouble with Mr. Warry, he was appointed Chairman of the second court. Mr. Warry was a dull, tactless man, who could be relied upon to do or say the wrong thing. He frequently stopped cross-examination because he could not see its drift, and his blunders in summing up led to constant and often acrimonious interruptions. He had none of the great skill of Mr. Loveland in captivating a jury by a fluent and elaborate address. A blunder he made in a case of mine precipitated his disappearance from Clerkenwell.

Two serious robberies were committed at two houses in Mayfair by thieves, who entered the basement from the area. They were seen by the crossing-sweeper, whose information led to the arrest of a man who visited the neighbourhood with a barrow buying bottles. The crossing-sweeper picked him out from others, which

he could hardly have failed to do, as he knew him quite well. He declared that he was the man who had gone down the area at each of the plundered houses. He was a singular witness; he had quite lost the sight of one eye, and seemed, from his peering demeanour, to have very little sight in the other, and he spoke like a man half-witted. His accounts of the incidents materially varied. The accused bore an excellent character, and had been a householder for some years. Mr. Warry had no misgivings whatever about the crossing-sweeper's evidence; he trusted and believed him, and resented my disparaging comments upon his testimony. It was not surprising that he should say, after the jury had convicted, that he was satisfied of the prisoner's guilt. There remained the indictment for the second robbery, and as the evidence was identical, I insisted on its being tried before another jury. Mr. Warry, after much pressure on my part, consented, but said he would ask Sir Peter Edlin to try it. He thought he was punishing me; in fact, he was preparing a rod for his own back. I knew that whatever the merits were Sir Peter would take the opposite line to Mr. Warry, and show his superiority in some dramatic way. I repeated before Sir Peter an expedient for exhibiting the crossing-sweeper's blindness. Sir Peter,

observing it, directed the ushers to let him find his way unaided to the witness-box. It is not an easy thing for a witness with good sight, but that day the judge and I were playing into each other's hands. The old man's gait and demeanour in peering nervously about was pretty conclusive as to the value of his powers of observation. But the climax was very sudden; having all along sworn it was the accused who went down the area, he now swore it was the other man. Sir Peter said that was an end of the case, and the jury promptly acquitted. I then mentioned the former trial, and that bail had been refused by Mr. Warry. Whereupon Sir Peter sent an usher to "desire" Mr. Warry's attendance. He called me up to the bench, and asked in the hearing of poor Warry, to whom he did not vouchsafe a word or a glance, if this was the witness upon whose evidence the other jury had convicted. I said it was. "I would not hang a cat upon that poor creature's evidence," declared Sir Peter with energy. Mr. Warry said he never heard a witness give his evidence so well. Sir Peter's only reply was to direct that the accused should be released upon his own recognizances until next Session, in order that a Royal pardon might be obtained. Next session Mr. Warry himself announced the granting of the pardon.

Mr. Warry was Recorder of Portsmouth, and I was once taken "special" to defend a very venerable man charged with picking pockets before him. I feared the evidence more than the Recorder, but I had hopes of a country jury. One Saturday in August two feeble old men, each nearly seventy, were seen moving about in the throng on Southsea Pier, alternately taking off and putting on their overcoats and joining and separating from each other. Not only were they observed by a detective, but also by no less a person than the Mayor of the borough. Both saw one of the old gentlemen taking a purse from a lady's pocket while the other adroitly covered him, as he thought, from observation by spreading out his overcoat. The detective rushed forward, knocking down the thief, who threw the purse from him. While the Mayor was picking up the purse and the officer was struggling with the thief the other man hurried off the pier. The detective, having secured the thief, said to the Mayor, "There goes the other!" and followed him. By that time he was outside the turnstiles. Seeing the officer, he turned round, stopped, and said, before the officer had time to speak, "You've made a mistake. I don't know that man." Upon him were found four sovereigns and a remarkably large quantity of silver; the other

man had twenty-five sovereigns in his pockets. I was instructed to attend the Petty Sessions to do what I could for the second man, but not to let him be sent to the Quarter Sessions ; if I could not get a discharge, to get the case dealt with summarily, which meant anything up to six months' imprisonment. I played about with the case, eliciting contradictions between the Mayor and the detective, and laying a little trap for the detective, which demolished the evidence that the second man, when stopped, had denied complicity with the other man before a word had been said to him. The officer had stated in chief that he said to the Mayor, "There goes the other one!" He was a young officer, perhaps a little too conscious of his own cleverness, so I asked him with a feigned air of mystery, "Didn't you whisper it in his ear?" "No, sir," was the prompt and rather indignant reply. "I said it loud enough for anybody to hear." "So I thought," I mildly remarked. I had previously got from the Mayor that at the time my prisoner was barely two yards off. But, unfortunately for him, on the very morning of the hearing a lady had recognized him as a man who sat in a tram on the Bank Holiday afternoon, and shortly after he rather quickly left the car she missed her money loose in her pocket. I could not get

the Bench either to discharge the prisoner or convict him summarily ; both he and the thief, who had pleaded guilty, must go for trial.

My chance was the effect of a speech on a country jury, and witnesses to character. Of the genuineness of the good character I had doubts, because the prisoners had both strenuously and successfully resisted an attempt to take their photographs while under remand. Finger-printing was then unknown. But the evidence of good character was singularly conclusive to ordinary experience. I was actually supplied with a detective from Scotland Yard, who had made the inquiries. Nothing could have been stronger than his evidence. The prisoner had been seventeen years in the same house ; he was a rent-collector, and managed house property in London for two landlords ; his wife carried on a business, employing a dozen hands, and his sons were in good positions in London business houses. Then I gave the jury a dissertation in most impressive form, suitably dwelling on the gravity of the accusation against an old man, standing in a criminal dock after a long life of honest and responsible work. When I was pointing at him—for his flowing white hair made his appearance beautifully venerable—he had the adroitness to drop his head in his hands, as if overwhelmed with

grief at his sad position. Mr. Warry's summing-up did not touch the jury; I saw I had got them. The moment they turned to consider their verdict out went the electric light, and the court was left in complete darkness. There was no gas, for the Corporation ran the electric light, and we waited amid jokes and laughter, more or less suppressed, until a constable returned from purchasing a packet of candles at the nearest shop; these were lighted, and either held in the hand or stuck in the ink-pots. Happily this incident came after I had addressed the jury. The jury had long ago made up their minds, and only waited for the candles to deliver their verdict of acquittal.

This verdict so demoralized the prosecution that young Warry, the Recorder's son, who prosecuted, manifestly against old Warry's opinion, declined to try the tramcar case, and agreed to an acquittal. The accused returned to town with his good witnesses to resume his rent-collecting and property managing.

Mr. Loveland became permanent Chairman of the second court. Only once did he make a blunder. He removed an estreat put on by Sir Peter in a case that ultimately came before him. For some reason it went back to Sir Peter. Counsel happened indiscreetly to say



that Mr. Loveland had taken off the estreat. Mr. Loveland at the moment was sitting by Sir Peter's side, not in robes, his court having finished. "Quite impossible," said Sir Peter Edlin. "The Chairman of the second court cannot have taken off an estreat which I ordered. You are wrongly instructed!" But no one, not even Sir Peter, could quarrel with Mr. Loveland. His good-humour and amiability endeared him to every one. Although I had often strenuous fights with him, and had sometimes to assume great indignation, we were always on the best of terms. I defended two cases before him and the same jury, one on a Saturday and the other on the following Monday. The first was a charge against a barber of stealing a scarf-pin from a customer, the second was a charge against an electrician of stealing some copper wire. Both were men of excellent character. I thought the barber, probably quite innocent, would be acquitted, while the case of the electrician seemed hopeless.

In the barber's case the prosecutor was the only witness. He was an impatient, passionate, self-satisfied Canadian, who admitted that when he went to the barber's shop he was in a hurry to go to a theatre; that he thought the barber was an "inter-

minable" time, telling him more than once to make haste, and finally himself roughly pulled the cloth from his chin, at once missing his scarf-pin. The barber and the prosecutor immediately examined the cloth, but in vain. The prosecutor, taking a seat near the door, called for a policeman; at length some one said a policeman was coming. Then the barber went to the basin, put his hand in, and the prosecutor, hearing a metallic sound, went to the basin himself and found the missing pin. He gave this evidence with much energy and declamation. When I came to cross-examine him, he avoided every question, breaking out in a repetition of his narrative. To the question how far the chair he had sat on was from the basin, he pertly replied, "I can't tell you, I am not a surveyor." And he "repudiated all my insinuations" when I was hinting at a mistake. Mr. Loveland summed-up this case in his usual way. It never occurred to him that a prisoner might be really innocent; guilt was quietly and confidently assumed. In perfect good faith he fluently and plausibly arranged the facts and circumstances in such a way that the jury could hardly fail to infer the accused's guilt. If it had been suggested that some of these very facts and circumstances

really pointed in the other direction, that was only due to the ingenious interpretation of plausible advocacy. Privately, I had often told him that his summings-up were speeches for the prosecution, but I always noticed that he was honestly convinced that I was quite wrong, and that the facts could not have been put to the jury with more judicial impartiality. In the course of the trial there was an active anxiety to bring out and make clear all the circumstances that pointed to guilt and an indifference to or rather an incapacity for believing in the truth or accuracy of details that told in the other direction. Juries were captivated by his sweet reasonableness and his courteous and good-humoured treatment of the defence. In the barber's case the prosecutor had asked the foreman of the jury to put the pin into the scarf to show how difficult it was to get it in. I pointed out that if it was difficult to put in, the prosecutor, in his hurry, might have put it in badly, and in his impatience may have himself pulled it out in wrenching away the cloth from his neck, and jerked it into the basin where it was found. Mr. Loveland's comment was a good-humoured pleasantry: "Ah! you know, gentlemen, Mr. Purcell is a very clever advocate, has had a great deal of experience, and it is a very

ingenious point, but——” And the jury laughed and the point was gone. The jury convicted. I heard afterwards that some of them visited the barber’s shop, and were so convinced from what they saw of the probability of my suggestion that the pin might have been accidentally jerked into the basin, that they signed a petition to the Home Office, and the sentence was remitted. I was very much concerned by this conviction, and in the interval before the Monday when the electrician was to be tried, I made up my mind to denounce this sort of summing-up. I got an easy opportunity. While I was reading and commenting on part of the accused’s statement before the magistrate, my opponent asked me to read on. After an indignant disclaimer of any intention to suppress part of the statement—it had been already read in its entirety—I added, that in any case counsel need not interrupt, for there was always a powerful address for the prosecution from the Bench. Then, for some ten minutes, quietly, deliberately, and good-humouredly, I gave the learned judge what he afterwards described to me as “a thorough good dressing down” for his mode of summing-up. In particular, I denounced his belittling good points by saying they were the ingenious work of a

skilful advocate, leading the jury to believe they were a sort of legerdemain or forensic jugglery, not honest and reasonable comments. This produced a great effect upon the jury. Mr. Loveland's reply was gentle and apologetic; he was only the mouthpiece of the Bench, honestly trying to discharge his duty by seeing that all the facts were laid before the jury, and he went out of his way to mention two points in favour of the prisoner which I had passed over as really insignificant. The whole tone of his summing-up was very different from the style in which on Saturday he had harried the poor barber. He told the jury to retire. When they had gone he beckoned me to the bench and said he didn't deserve such a dressing; but though I had hit him hard, he was, as usual, all smiles and kindness. The jury returned with a verdict of not guilty. Yet the evidence had seemed to me conclusive. The copper wire was locked up in a cupboard in a house where the accused's employers were fitting electric light. The caretaker, a respectable elderly woman, very intelligent and reserved, to all appearance thoroughly trustworthy, swore that the accused, coming to the house after the work was finished, went to the room where the cupboard was, and she heard a noise, as

if the cupboard were being broken open. A few minutes later, sitting at the dining-room window, she saw him walk away with a roll of copper wire on his arm. The accused's defence before the magistrate was that he went to the house for his tools and forced the cupboard to get them. The witness who deposed to locking the wire up in the cupboard added that he saw the accused's tool-basket just outside the cupboard.

The Sessions in those days were nearly continuous. Beginning on the Monday, they always continued till the Saturday, and often several days in the second week. Sir Peter Edlin lost no opportunity of describing how the court sat *de die in diem*, leaving him only Sunday on which to read the depositions. Under the statute he had no right to a holiday; he had to make application to the Home Office with medical certificates. Once, at least, he was refused a holiday. But, like his colleague Mr. Loveland, and unlike a good many other judges, he took a real interest and pleasure in his work, and was nowhere so happy as when presiding in his court. He had no anxiety to hurry through the business of the Sessions and get away. When the London County Council came into existence, and he became Chairman of the Quarter Sessions,

he began an unhappy and undignified agitation for an increase of his salary, to which he was well entitled. But he had a good many enemies on the County Council—and he took no pains to conciliate his brother justices, who were in a position to judge his real merits; he was indeed intolerant of any interference on their part, and treated them with scant courtesy; they could not cough without drawing reproachful glances, and he insisted on their abstaining from conversation with one another. Some of the new justices appointed by Radical Lord Chancellors to give Radical tone to the Bench were not spared his criticisms; one, when sworn in, loudly declared his allegiance to the Queen, her “hairs,” and successors. “The hairs of her head, every one of them!” he said to me grimly. When Mr. McConnell became Chairman he soon won the hearts of his judicial colleagues by his easy bonhomie, and one, at least, I know was always ready to regale him with smoking-room stories between the trials.

There were rare occasions when the justices rebelled against Sir Peter. One case that attracted much attention at the time is an illustration. A well-known sportsman, a young nobleman, had dealings with a money-lender, and at a certain juncture was said to have

kicked him downstairs. He was committed to the Sessions. The case aroused much feeling, as the defendant was a popular man, and owing to the known disposition of the judge—Sir Peter did not hesitate to send lady shoplifters to prison like vulgar thieves—many friends of the accused among the justices came specially to protect him from such a punishment. When judgment was about to be pronounced some justices actually addressed the court from the bench. Whereupon the Assistant judge said the court would retire. What his intention had been I know not, but when the court resumed he said the judgment of the court was that the accused should pay a fine of £100. Montagu Williams, who was defending him, ostentatiously drew a roll of banknotes from his pocket and paid the fine. The crowd of justices at once left the court.

Sir Peter's repeated applications to the County Council for an increase of his salary were refused, and then he resorted to the odd expedient of refusing to take any salary, because the Council would not increase it. For several years he discharged the duties of his office without taking the salary. Finally he accepted the Council's offer to give him a pension of £1,500 a year if he would resign. I was one of the few barristers present at



his farewell; several whom he had favoured and benefited were conspicuous by their absence. Sir Peter Edlin, the turmoil over, was at his best; his address was dignified and pathetic. He deserved well of the Bar. During his twenty-two years' service, his court was a splendid school of advocacy. Any one who had studied before him the daily lessons of how to prosecute or how to defend could appear before most judges with ease and confidence. Apart from the rare occasions when I scored an acquittal against him—and then we were not on speaking terms for several days—we were always on the pleasantest terms.

At one time a form of shop robbery was very common and successful. Confederates would watch a shop, ascertain where the till or cashbox was kept, and then, choosing a time when usually there was only one person in the shop, while one confederate engaged that person's attention, another would make off with the till. The leader of the gang and a young man who, though twenty-five, looked like a boy in his teens, were sent to the Old Bailey on fifteen such cases, in which they had secured some hundreds of pounds. I prevailed on the Recorder, Sir Thomas Chambers, to let the youth off with nine months. On his release he was caught again

for a similar offence, and came before Sir Peter Edlin. I so far succeeded in impressing him with his youth and the desirability of preserving him from further contamination, that sentence was actually deferred to give his friends an opportunity of procuring for him a passage to Sydney, where I was instructed to say he had an uncle. But unfortunately one of the eighteen victims of the case before Sir T. Chambers came to the court, and hearing my appeal, he straightway wrote a letter to the judge, in which he said I had "pitched the same tale" to the late Recorder about his youth and innocence, whereas the prisoner was a consummate young scoundrel. Sir Peter privately showed me the letter, and jocularly told me it exposed my tactics, and added, "I know you are very adroit, but this time it won't do. I shall give him eighteen months." I said it was too much for such a boy, twelve months would be quite enough, but he persisted in saying eighteen. When the prisoner came up he gave him the twelve months I had asked for.

On one occasion he sent a prisoner, whom I had defended, to penal servitude for five years. I thought that, on his own well-defined standard of punishment, eighteen months' imprisonment would have been the right sentence.

I told him so privately; an hour later he had the man brought up, and reduced the sentence to one of eighteen months. But the time came when the man was convicted again before Sir Peter. The Sessions warder, as I was in court, reminded the judge that it was on my appeal he had recalled the sentence of penal servitude. "Ah," said Sir Peter, "I ought to have shut my ears to his appeal!"

I defended a police-constable before Sir Peter Edlin who would certainly to-day have been acquitted. Sir Peter had no susceptibility for a possible explanation which might exonerate the accused; he would not allow facts to be countered by a theory. Yet in this case the officer may well have been innocent, and evidence of his high character was given by vestrymen and tradesmen who had known him in business before he entered the police. He had recently reaped an especial crop of praise. He was one of the fifteen officers who alone made an effective resistance to the socialist rioters who for some time had the West End shops at their mercy. He was sure of promotion, and would have shared the substantial sum that Oxford Street tradesmen had subscribed for the gallant and resourceful fifteen.

A lady leaving Marshall and Snellgrove's, feel-

ing cold, threw a wrap round her neck and jerked her purse out of her handbag. A gentleman picked it up in the roadway and handed it to a policeman, suggesting that they should examine its contents. The gentleman counted six sovereigns and the policeman counted five; they counted again and yet again, without taking the coins from the purse, before the constable agreed there were six. The officer said he would take it to the station. At the station when handed to the inspector the purse contained only four sovereigns. The constable said it had been picked up by a little boy, who gave his name and address. A few days later the gentleman called at the station. Then it was found that the boy's address was in a street that did not exist; the constable denied having seen the gentleman, and the gentleman, not unreasonably, could not identify the policeman, though he identified the purse, and the lady said it had contained six sovereigns. A reasonable explanation was that the constable in truth received the purse from the gentleman, but finding only four sovereigns was frightened into telling a silly lie. There might well have been a mistake in the repeated counting and, assuming the lady to be correct, the other two sovereigns might have slipped from the purse in the fall. This defence was not defeated

without a stubborn fight against Sir Peter, and the jury were some considerable time in deliberation. The accused was sent to prison for four months, in addition to 'the inevitable dismissal from the force.

When juries in all felonies were kept together during the lunch adjournment and sent in custody to a hotel for the night, Sir Peter had a favourite device for shortening defences. Early in the day he would ostentatiously direct the usher in charge of the jury to make arrangements for them at the Cannon Street Hotel. The usher, alive to the device, would as ostentatiously leave the court, betaking himself only to a neighbouring hostel for comforting refreshment. This usher was quite a character. Huge and stalwart, he had been the flogging warder at Pentonville Prison, and from his singular facial resemblance to that now extinct animal he was known as "the 'Bus Horse." By the time he had completed his refreshment the threat of being locked up for the night had produced the intended effect on the jury and consequently on the defence. The usher quietly resumed his ordinary functions. One of his functions was to arrange and dispose of the judicial nosegay. Every morning a huge nosegay was placed beside the Assistant judge; in the sterner days

of the London County Council the nosegay ceased to appear. Montagu Williams used to tell the story of how, visiting one day some theatrical friends, there was introduced the usher, bearing the judicial nosegay and Mr. Edlin's compliments.

Another important official of Mr. Edlin's court, who was disendowed if not disestablished when the County Council took over the management of the court, was Mr. Rumbelow. He administered the oath to witnesses, and was paid threepence for every oath sworn by himself or by his deputies in either court or before the Grand Jury. It must have yielded a substantial income, and the work was not arduous. He showed great tact in his duty; no respectably dressed witness was ever tendered the greasy cover to kiss, but a clean page of the Testament was carefully opened; there were witnesses who were wont to intensify their oath by the vigour of their osculation, somewhat to the detriment of the cover. At length the growth of refinement and the dread of microbes led to the institution of Testaments with white, washable covers. It may be that they revealed the dirtiness of the proceeding, for the abolition of kissing the Book soon followed.

Mr. Rumbelow was in his way a character; he was an important personage, and though

wearing a gown, not an usher. If a strange barrister addressed him as usher, he paid no heed; if the call were repeated, he simply drew the attention of an usher. Even the Assistant judge had to address him as Mr. Rumbelow. In his later days he was officially the librarian. He was an intelligent, observant man, and his reminiscences of long bygone days were extremely entertaining and not overshadowed by too much respect for Bench or Bar.

There is, after all, a human element even in an usher. One who used to have charge of the jury when they retired to consider their verdict could easily overhear their discussions, even if he did not hold the door ajar. He used to signal to my clerk by agreed signs "acquittal," "conviction," or "disagreement," so that I could have early intimation of the result of my efforts. It must have relieved the tedium of his task.

Sir Peter had many deputies, and if I add to them the deputies of his successors, they afford a great variety of judicial characteristics. I have practised before them all, and ought to be a connoisseur in Sessions judges: Serjeant Cox, Mr. Wyndham Slade (junior counsel for the Post Office, and later a police magistrate), Mr. Fletcher, Mr. Warry, Mr.

Loveland, Mr. Morgan Howard, Q.C., Mr. Littler, Q.C., Mr. Forsyth, Q.C., Mr. Prentice, Q.C., Mr. Philbrick, Q.C., Mr. Bompas, Q.C. (all three afterwards County Court judges), Sir William Hardman, Mr. Commissioner Kerr (who did not bring with him his Old Bailey style and methods), Sir Forest Fulton (when he was Common Serjeant); then in Mr. McConnell's time Sir William Quayle Jones, familiarly known from his rate of progress as Snail Jones; he was the only deputy for ten years. Since those days besides Mr. Lawrie there have been several, all but three practising members of the Sessions Bar, and for all but one the Bench of the Sessions has been the stepping-stone to a seat at a metropolitan police-court: Mr. Hedderwick (whom in my debating club days I knew as the energetic secretary of the Westminster Society), Mr. Arthur Hutton, Mr. Chester Jones, Mr. Clarke Hall, Mr. A. H. Spokes. At the new Middlesex Sessions I have had experience of Mr. Sharpe, Mr. Nield, K.C., Mr. De Salis, and Mr. Lilley.

Of Sir William Hardman I had little experience. His method of trying prisoners only differed from that of Sir Peter Edlin in being less elaborate and more direct, and was equally effective in securing a conviction. I preferred for my prisoners the carefully standardized



sentences of Sir Peter to the extravagant punishments of Sir William. He once sentenced a man convicted of stealing boots from outside several shop doors by cumulative sentences to twenty years' penal servitude. When he had served his sentence he was neither reformed nor deterred. He returned to his old means of livelihood, stealing boots from shop doors, and was brought again to the Sessions. Sir William Hardman had recently died, and Mr. McConnell was the judge. When I was commenting on the sentence he gently stopped me by saying, "De mortuis," gave the prisoner some kindly, sympathetic advice, and sent him to prison for four months. Whether the shock of such kindly treatment killed him or reformed him I know not, but he was never heard of again.

In another case Sir William actually aroused sympathy for a shocking offender by giving him for a gross misdemeanour three consecutive terms of two years' imprisonment with hard labour on the three counts of the indictment. If any one had the industry to count up the sentences Sir William passed, I think it would exceed the totals together of Sir Ralph Littler, Sir Peter Edlin, and Mr. Commissioner Kerr, and they distributed penal servitude with no niggardly hand.

## CHAPTER IX

### GLOVE FIGHTING AND PRIZE FIGHTING

THE case of Slavin and McAuliffe was the charter of liberty for glove fighting. It laid down no new law and made no alteration in the old law. The distinction between fighting that was legal and fighting that was illegal was very subtle even for trained lawyers, and as this case proved was much too subtle for the average jury with sporting instincts. They could not agree upon a verdict and the prosecution abandoned the prosecution, offered no evidence at the second trial, and submitted to a verdict of not guilty. The practical result was that the police, who up to that time had warned the promoters of glove fights that they were illegal and liable to prosecution, ceased to molest them. The ruling principle was that fighting, for several reasons, was against public policy, and the combatants were therefore deemed incapable of consenting to each other's blows and each was liable to conviction for assault, and the promoters and spectators were

equally liable as aiders and abettors of the misdemeanour of the principals.

The match between Slavin, the champion of Australia, and McAuliffe, the champion of California, for £1,000 and the championship of the world had attracted universal attention; the ordinary papers, not less than the sporting journals, were full of the latest details and prognostications; it aroused as much interest as the famous fight between Sayers and Heenan. As the referee, Mr. Vize, said to the spectators at the fight in order to secure the utmost decorum, "the eyes of England, Australia, and America" were upon them. The police-inspector, Mr. Chisholm, in charge of the district in which was situate the Ormonde Club, where the contest was to be held, took action. He had the combatants arrested on the morning of the fight and bound over to keep the peace. The fight was postponed for a week, and the men were again arrested, but this time the action of the police was contested. Lord Lonsdale, with characteristic sportsmanlike spirit, took up the defence. His solicitors, Messrs. Ellis and Ellis, instructed Wightman Wood (who recently died a County Court judge) to defend McAuliffe, and they instructed me to represent Slavin; no pains were to be spared to secure liberty,

for glove fighting. The two men were brought before Mr. Partridge, a genial and good-tempered magistrate, who proved his tact and discretion by his adroit decision. The scene was an exciting one; a large body of police regulated the enormous crowd gathered outside the Lambeth police-court to see and cheer the rival heroes and to learn the result of the proceedings. The court itself was packed with the flower of the fancy. Mr. Inspector Chisholm produced from Scotland Yard a pair of boxing-gloves stamped as orthodox, graphically described by Lord Lonsdale as "feather beds," and contended that only fighting with such gloves would be legal. The legal aspects of the case were discussed at length, but the learned magistrate judiciously compromised. He refused this time to bind the defendants over not to commit a breach of the peace, but bound them over with sureties in substantial amounts to appear at that court if called upon. The fight was not forbidden, but if they did fight they must be prepared to face a prosecution. This round was a clear victory for the defence. The fight took place and the combatants were prosecuted. The utmost pains were taken to collect material for the satisfactory presentation of the defence. I was, so to speak, put into training,

and taken by the solicitors to boxing clubs to examine gloves and watch fights. I had no idea of the popularity of the sport; in every suburban district there was a club, meeting at the principal hotel, and attended by the young athletes of the neighbourhood. Perfect order and decorum prevailed, and the keen interest of the spectators was only equalled by the zeal of the combatants, who, like the spectators, were thoroughly respectable suburban residents.

Poland was brought to the police-court to conduct the prosecution. His contention was that Slavin and McAuliffe's fight was, to use his own language, "a low, common, vulgar prize fight." The combatants came from great distances for a big stake and a big championship; there was all the usual equipment of a prize fight—the seconds with resin, fans and sponges, the bottleholder and referee; but instead of being on the turf it was in a room in the dead of night. Two powerfully built, well-trained men fought so that one might knock the other out; in the second round Slavin inflicted serious injury on McAuliffe, forcing him to relinquish the battle and rendering him unable to walk for twenty minutes. Wightman Wood and I succeeded in cross-examination of the witnesses in eliciting the

scientific characteristics of the fight, and we destroyed a serious piece of evidence. One inspector had treated the gloves as a sham, for the seconds worked the padding quite away from the knuckles; but we got from another officer that they were only moulding the gloves to fit more closely to the hands. The police evidence, indeed, by no means uniformly supported Poland's description of the fight as a "low, common, vulgar prize fight"; several who had had experience of glove fights saw nothing inconsistent with a scientific boxing match. We were also successful in preventing what would have seriously hampered the defence. Poland had applied for sixty summonses against the managers of the club, the promoters of the match, and the officials, as well as some spectators; as defendants were not then competent to give evidence, we should have been deprived of our principal witnesses. But Poland, though ever a quiet and deadly, was always a reasonable and considerate, foeman, and on our representation of the difficulty he withdrew his application and enabled us to call the only people who could give an authoritative account of the fight from the point of view of the defence. We also called Mr. Bond, the surgeon at Westminster Hospital, famous in those days

as the Treasury adviser, and he proved that the marks on the men did not indicate any serious violence, and that it was improbable that any injury would result from the use of the gloves the men wore.

Mr. Partridge had really no option but to commit the defendants for trial. The case came before Sir Peter Edlin. Very wisely the solicitors instructed Sir Charles Russell to lead the defence; his commanding authority had very much the same effect on Sir Peter as the appearance of Sir Hardinge Giffard once had on Mr. Commissioner Kerr in a case described elsewhere; Sir Peter was all blandness and consideration. The trial lasted two days. Sir C. Russell, in a powerful address to the jury, urged upon them not to check an athletic sport in deference to a maudlin sentimentality, and described with force the true character of the match. The drift of Sir Peter's summing-up was clearly in the direction of the prosecution, but he submitted the issue quite fairly to the jury in formal questions. "Regard being had to the conditions prescribed, and the size, weight, and strength of the men, to the purpose for which they met and the gloves they wore, was this a contest in which blows might be exchanged the probable consequences of which would be personal injury to one or both, or

was it merely a contest for points in a scientific sparring match and not likely to result in serious injury? In the former case it would be a prize fight, and then the verdict should be guilty; in the latter it would not be illegal, and they should acquit the defendants."

After an absence of two hours—it was four o'clock on a Saturday afternoon, for in those days there was no Saturday holiday—the jury returned into court, and the foreman said they had not agreed and there was no probability of their agreeing. This was not enough for Sir Peter, and he advised them to retire again. Ultimately they returned into court, and the foreman declared it was impossible for them to come to an agreement. They were then discharged. Next Session the prosecution, admitting they had no reasonable expectation of obtaining a different result, consented to a formal verdict of not guilty, which, with the acquiescence of Sir Peter Edlin, was duly returned. No glove fight has since been prosecuted; in this case the proceedings had not been initiated by Scotland Yard, but were due entirely to the action of the local inspector; his excessive squeamishness gave liberty to the sport.

Sir Peter Edlin had been in the habit of administering stern justice when prize fighters and their abettors had been brought before



him. I was in two cases some years before the practice of glove fighting had become popular. Whenever Sir Peter took special interest in a case he was in the habit of delivering written judgments, which he afterwards handed to the barrister who in those days reported for *The Times*; he adopted this course in one of the prize-fight cases, and his judgment is so characteristic of him that it is worth reproducing:—

The Assistant judge, in passing sentence, said:—

It would be a reproach to the law if it failed to meet the gross and scandalous offence which is the subject of this indictment. A peaceful village is made the scene of a prize fight on a Sunday morning, the place invaded and its quietness disturbed by a gang of pugilists and their ruffianly associates, followed, as usual, by a dissolute and disorderly mob. I cannot help thinking that the audacity with which these meetings are organized has not been a little encouraged by a mistaken forbearance and the reluctance sometimes manifested to treat prize fighting as a criminal offence. But a criminal offence it is, and one of a very obnoxious kind, bringing many others in its train. So far as this county is concerned, it will be understood by those disposed to break the law in this way that, if their trials should extend to this court, we shall not wink at their brutal and demoralizing sport.

One principal only was arrested; he was sent to prison for two months with hard

labour; the same sentence was passed on one of the seconds and six weeks on another. The fight had taken place at Hendon, whither some forty men had been driven, packed in a covered furniture van.

In the second case the fight was held at the rural village of Greenford, in Middlesex. The prosecution was conducted by the present Recorder of London, who was then the Treasury counsel at the Sessions. The learned judge was not so severe. It was some years later. The principals were sent to prison for one month and the abettors fined £10 and ordered to enter into recognizances with sureties not to offend again. I represented one of these abettors, who afterwards played a prominent part in the Slavin and McAuliffe match.

## CHAPTER X

### SOME EXCEPTIONAL JURIES

THE proper study of the advocate is the jury. Careful and constant observation of the twelve men in the box yields invaluable guidance. It is impossible for jurymen to conceal their opinions on any particular piece of evidence. How they receive it, their attitude, and the expression legible on their faces are valuable clues to their turn of mind. London jurors are very rarely lacking in intelligence; they show none of the dull apathy of a country jury. The trouble with a London jury is to fathom the depth and gauge the acuteness of their intelligence. Sometimes they are a very unequal body; some two or three, alert-minded and independent, evidently dictate to their less energetic colleagues; sometimes these exceptional men take antagonistic views to each other, and the questions they ask disclose where their divergence lies, and what is running in their minds. Their physiognomy, though dangerous to rely on, may indicate

their habit of mind. The particular district they come from, their probable occupation, even the way in which they take the oath, are useful indications of their capacity to deal with evidence and argument. When a juror objects to the taking of an oath, he has bared his mind to the watchful advocate. I once had a jury that impressed me so much that I made a note of them at the time. The foreman had a jaw and mouth of iron firmness; his neighbour scarcely ceased from smiling cynically; another man, bald and long-bearded, with keen eyes, followed argument closely, and was quick to detect a fallacy. On this man I fixed my eyes with the hope of capturing him, but I saw he shirked my conclusion and significantly shook his head. I at once pointedly referred to his evident disagreement, and he showed by his demeanour that I correctly interpreted him. One or two others were faces that I studied, and I found I had to use my most reasonable-looking arguments and the simplest, directest language to win their attention at all. They were not a convicting jury; they several times took a strong view in favour of a prisoner, but they were long-headed men of business, quick in judgment and intolerant of mere talk.

The study of the jury, while of the utmost

importance, is also one of the most fascinating parts of the advocate's work. In one respect I have again and again made a mistake. I have mistaken agreement with me for disagreement and vice versa. The reason is that the symptoms in each case may be identical. If a jury agree with me, or disagree with me, they may show the same signs of a dull, weary indifference. In a recent important case, in which I thought the defence hopeless, and the jury's demeanour quite disheartened me, they immediately returned a verdict of not guilty. My view of the case was not wrong, for the learned judge good-humouredly told me in private that it was a gross miscarriage of justice. I believe he thought as I thought, that the jury were not having me.

But concrete cases show how a jury may be influenced, and how they may act.

### 1. A COMPASSIONATE JURY

One evening, at 8.40, a man who had twice undergone penal servitude was watched by police-officers loitering among villa residences. They lost him once for a few minutes, then followed him, not in any one direction, but practically in a circle. Finally he stopped at a public-house; the officers said it was then 9.10. Ten minutes later they arrested him.

He struggled with his captors, who were in plain clothes, appealing to passers-by for help as he was in the hands of ruffians. At the station, when searched, in the prisoner's pocket was found a piece of iron which, though not strictly a jemmy, could serve as a jemmy, where not much power was needed. He had also a painter's knife, useful for paint, but also capable of pushing back window bolts. He had, besides, some thick lumps of horse-flesh and, quite under his clothes, two packets of white powder. This powder was administered to two rats, who quickly died, exhibiting symptoms of strychnine poisoning. He was charged with the possession of house-breaking implements by night. The horse-flesh and the strychnine were, it was suggested, for the purpose of quieting any troublesome dogs that might be encountered.

The defence set up by the solicitor at the police-court was that the evidence of time was unreliable; if it were even a minute before nine when the prisoner was arrested the indictable charge must fail; but the justices could, if they pleased, convict him summarily as a rogue and vagabond, and send him to prison for three months. The justices, knowing his history, preferred to send him for trial. The defence was judiciously

reserved, and I was briefed to defend. I did my best to shake the police evidence as to the time, but I relied on the prisoner's plausible story as disclosed in his proof. It was very effectively told, and it won the hearts of the jury. He said he lived at Islington, having been married two years to a thoroughly respectable young woman, an officer in the Salvation Army. It was on her account, as she was hysterical and in bad health, that he had refused to give the police his address; there was another reason which appeared in the sequel. About 11 o'clock on the day of his arrest he bought some meat for his cat from a shop where he had dealt for a year; he bought it early, for the shopkeeper was often soon sold out. He next called at a crate shop to see if he could buy a crate to hold a sewing-machine he wanted to send away, taking with him the "nail drawer," as he described the alleged jemmy, to pull the crate to pieces—if he found one—to a suitable size to carry. He then visited several auctioneers in the neighbourhood of Finchley, whither he came by tram, not to see any one, but to read the notices of approaching sales by auction, which he usually attended. This brought him to where the officers saw him; he went into a shop to buy an evening paper, which was

when they lost sight of him. He went to the public-house before making for the tram to take him home. The paint knife he had used when he painted the stairs and hand-rails at his home. The powder he bought at the chemist's with the written authority of a doctor to poison his dog. The dog was the gift of a City detective, who had been his landlord at a previous house, and he called it Bobby, a tribute to the force from whom it came. But Bobby was reaching the age when a licence was required ; as he could not afford to pay for one, he determined to poison it, unknown to his wife, who was very fond of it. So one day, when she was out, he administered the powder, telling her he had lost the dog. The remainder of the powder he had carried with him rather than leave it about, as he had a young child. A little dramatic warmth was given to this captivating explanation. Suddenly prisoner's young wife, who was in court, was seized with a fit of some kind, and began shrieking and yelling at the top of her voice, and when taken from the court her screams were heard from outside. Then the prisoner fell into a beautiful fit, and shrieked, and yelled, and struggled, and talked about his poor wife. It was a very affecting scene which deeply moved the



jury. He swore that when he was arrested at the public-house the clock of the convent opposite chimed a quarter to nine. This was an artistic touch. The jury—they were not a London jury—acquitted.

The sequel soon followed. He and his wife were arrested for burglary. He had not given his address to the police for a more potent reason than his wife's delicate health. At the house were the proceeds of several successful burglaries. The very means adopted to prevent discovery led to discovery. The wife, being duly warned, took the plunder, consisting of jewellery and plate, packed in a bag, to a neighbour, asking her to mind it. This good woman, hearing of the husband's arrest, became nervous about keeping the bag and informed the police. Husband and wife were committed to the Central Criminal Court on four charges of burglary. There was no defence for the man; for the woman I was able to secure an acquittal on the legal ground of marital coercion. The man was sent once more to penal servitude.

## 2. AN INCREDULOUS JURY

A young foreigner, who had been some years in London, winning a good character in different employments, became assistant to a

tradesman in Whitechapel. His master had accounts at two banks in the neighbourhood, and used to send him to pay in cheques and cash. When he wanted cash he would draw a cheque to his assistant's order, sending him to cash it. Hitherto he had fulfilled these tasks with perfect honesty. One day, when a creditor was waiting for payment, the master in the usual way drew a cheque in favour of his assistant for £48, and sent him to get the money. Both master and creditor swore that, the creditor wanting notes, he was told to bring notes; at the bank he did not ask for notes, but took, as the cashier said was his practice, gold placed in a bank bag. This bag, according to his account, he put in his outside jacket pocket. His master and the creditor waited in vain for his return. The master, after inquiry at the bank, made a complaint at a police-station. Shortly after midnight the assistant called at a police-station and stated that he had been robbed of £48. He explained that on returning from the bank where he had cashed the cheque, in crossing a turning in Whitechapel Road, two men brushed against him, and he missed the bag of money from his pocket. By chance the master met him leaving the station, ran towards him, calling him a thief, and seized

him in spite of an attempt to escape. He then said he had lost the money. At the trial the accused accounted for not reporting his loss for nearly twelve hours by saying that he was so shocked that he walked straight on, not knowing what he was doing, getting to Hyde Park and wandering about till midnight. The jury was quite an exceptional one. I had had experience of some five or six juries on that panel; they were a shrewd, long-headed set of men, quite above the average, and quick at taking a strong view of the evidence before them. The jury in this case were dead against me; the foreman, a grey-headed, acute-looking man, seemed quite intolerant of the defence. Leaning his chin on his kid-gloved hands for a long time, he would not deign even to look at me; this always provokes me, and I went for him; after a time I got him to follow me closely but too critically; I could not convince him, but I made him listen. Nearly all the rest of the jury were difficult men to get hold of; one was a bookmaker—not an easy man to persuade—who knew me, and afterwards sent me a message that he had done his best for me, but the facts were too strong. With the judge (the case was tried at the Central Criminal Court) I was more successful. I

got the accused released on repaying £25 to his master. I have known many juries who would have acquitted this man.

### 3. A SYMPATHETIC JURY

A French lady, the wife of a doctor, met a woman in a Catholic church weeping, with a baby in her arms, apparently in great distress ; she kindly inquired her trouble. She and her husband were out of employment, unable to support themselves and their baby ; they had only just come from Ireland, where they had been in the service of a titled lady. The doctor's wife, impressed by the sad story, offered to engage her and her husband as cook and man-servant on the understanding that their reference should be afterwards verified. The offer was gratefully accepted. Very soon after they entered the lady's service articles began to disappear. The doctor's son noticed the man wearing his mother's gold chain ; he explained that he had accidentally broken it while dusting, and promised to replace it next day. Later he said he had either lost it or it had been stolen from his waistcoat. Among other property missed were a pendant, which was found to have been pawned by the woman, some copper pans and rugs, which had been sold to a man employed to clean the windows ;

a missing overcoat the male prisoner had been seen wearing. Inquiries were made about the titled lady in Ireland, but she could not be found. First the man and then the wife was summarily discharged. When the woman's box was searched some blouses and other articles belonging to the lady were discovered. At the house where the man lived was found a stethoscope belonging to the doctor. The man made statements that were really admissions of guilt, but they were open to plausible explanation. Since he had been dismissed from the doctor's service he had been engaged in a position of some trust in one of the railway companies. In the witness-box he said he had been through the South African War and had excellent discharges. On examining them it seemed to me that they had been tampered with, and did not refer to him. It was hinted to me that the prisoners were not married, the woman being the wife of another man, probably the real South African hero. The note I struck and followed throughout was that there could not possibly be two persons more undesirable as domestic servants than the two prisoners. They had taken the greatest liberties with their employers' property. They had worn their jewellery and their clothes. They had sold

as useless articles which they had no right to sell, but they had done it all quite openly. The man wore the chain and the coat in the house, and sold things to a man constantly employed about the house, the woman taking the blouses and underlinen because she thought they were cast off, and keeping them in her box to utilize for garments for her baby. As for the stethoscope, that had actually been seen in the hands of the baby in the perambulator as a toy. It was most reprehensible conduct, but not the felonious taking of their employers' property, and I dwelt upon the service to his country the man had rendered in South Africa, and upon the fact that now enjoying trusted employment in a great railway company, he was able to support his wife and that innocent baby to whom he had given the stethoscope as a plaything. I saw I had deeply moved the jury—again not a London jury; they were listening with wide-open eyes, drinking in all I was saying. They returned the verdict I had asked for: "We think they took the property, but not feloniously."

#### 4. A DULL JURY

A jury twice unanimously found a prisoner guilty and then found him not guilty. It was a street robbery, and turned on a ques-

tion of identity. Two police-officers saw the robbery, recognizing one of the two thieves as an old convict; but though they secured one thief, the other, the man they knew, escaped. Next morning the prosecutor, himself detained for drunkenness, found the thief, who escaped among the prisoners at the police-court, and pointed him out to the two officers. It appeared that he had been arrested for attempting to rescue a woman from the police some four hundred yards from the scene of the robbery and within ten minutes of the robbery. The case had been sent for trial without any evidence of the time of prisoner's arrest. At my request the charge-sheet was sent for, but as I felt a little uneasy as to the result I suggested that instead of suspending the trial we should proceed. I spoke privately to Mr. Loveland, who was trying the case, and he agreed with me that the evidence was not satisfactory and would help me. I returned to my place, and at the judge's suggestion told the jury that if as the case stood they had made up their minds to acquit they need not hear me or wait for the fresh evidence. They turned to consider, and in a few minutes the foreman said they were agreed.

"Do you find the prisoner not guilty?" said the clerk.

"No," was the startling reply of the foreman, "guilty."

The foreman was a very odd-looking man, so utterly expressionless throughout the case that I thought he was deaf and heard nothing; it was really only stupidity. I then addressed them with some vigour, but not at any length or with any elaboration, relying on Mr. Loveland's promise of help; but he did not help me. The jury again returned a verdict of guilty. Mr. Loveland said he was not satisfied with the verdict and would not then pass sentence. At that moment the evidence as to the exact time of the prisoner's arrest arrived and was given. Mr. Loveland said the jury had better consider what effect it had upon their opinion. The foreman then asked what time the robbery took place, and when he was told 11.40 and that at 11.50 the prisoner was in custody for the other offence committed four hundred yards away, he said they had not understood it; yet we had been discussing it in the plainest possible way. Then at last the jury returned a third verdict, this time not guilty.

## 5. A TURBULENT JURY

Juries as a rule are quiet and patient. At the Central Criminal Court, where they are



changed practically every day, they have no opportunity of acquiring any independence before they are released. At the London Sessions one jury is usually in the box for the whole Session ; they get to know one another, acquire courage and confidence, and actively intervene in trials. But such intervention is moderate and restrained. There was one remarkable exception. I had experience of them in three successive trials. They showed a disconcerting alertness of intellect and a complete disregard of customary procedure. At all stages, in the middle of examination-in-chief or of cross-examination, they rained questions upon the witnesses, often prefacing their questions with observations ; each juror seemed anxious to make his own particular mark in the trial.

A lady visited an auction at a house in Eaton Square. She met the accused, a dealer, who volunteered his assistance. She commissioned him to buy certain valuable ornaments. He bought them, taking them to her house, when she gave him a cheque for the purchase money. She afterwards discovered that they had been knocked down by the auctioneer at a price £5 less than she had paid. He was charged with obtaining the £5 by false pretences. The defence was that at such auctions the dealers

combine to get articles knocked down to one of themselves as cheap as possible. They do not bid against one another, but only against outsiders. After the auction a "knock-out" is held, and goods previously knocked down to a confederate are bid for by the confederates. The difference between the final bid and the price paid to the auctioneer is then shared equally among the confederates. If the accused's story were true, there was no case against him on the indictment. The jury questioned every witness, sometimes debating with one another before putting the question. The accused was severely heckled by nearly every juror. Unfortunately, he was a confused and nervous witness. His tormentors let him plainly see they did not believe him. The Chairman judiciously let them alone, and I did not dare complain. When I came to address them I told them that the short-cuts long-headed men of business may take in their own affairs of which they have lifelong experience are dangerous when they are trying a fellow-man who, like themselves, enjoys the esteem and respect of his friends and has had forty years' experience as a dealer at sales. They must not confuse in their strenuousness the dishonesty of the knock-out with the question of the accused's honesty. The jury, after much

hot talking, said they could not agree. Their difficulty was disclosed. They did not believe there had been a "knock-out" at all. One juror asked me why I did not call the knock-out dealers. The explanation that they were not likely to come and confess to what was an unlawful conspiracy only half-satisfied them. At length, very reluctantly, they agreed upon a verdict of acquittal, adding that they had only got the prisoner's word for the story of the "knock-out."

The next case was a charge of receiving stolen property. A lad in the employment of a customer of a firm of wholesale locksmiths contrived to obtain from them considerable quantities of locks on the pretence they were for his master. He took them to the accused, who paid him very small sums for them. He declared that he had been introduced to the accused by his son, and the accused had promised to buy any locks he brought. When the lad's master discovered the fraud, the lad made a clean breast of the matter, relating in detail how he had been tempted by the accused. The police visited the accused, a furniture-maker in a large way, finding a great quantity of locks which were identified by the firm from whom the lad had obtained them. They were in packets, with a label bearing numbers and

letters. I had elicited that the label was put on by the manufacturers, a North Country firm having enormous dealings all over the country. Then a juror, having got hold of a packet, said : "The number is only the makers' price list number, and the letter L only means left-hand lock for a double door cupboard. I'm in the business and I know." This finished the identification. But the jury believed that the lad had been tempted by the accused, and rebelled against the necessity of his corroboration. One said the lad declared he had been introduced by his companion, the accused's son. "Why don't you call him?" I called him, and he swore positively he had never been the lad's companion. This was enough, and the jury acquitted.

In the third case this jury received a lesson that tamed them. A van, laden with cases of eggs and casks of butter, was stolen; the eggs and the butter were found in a shop which the accused was about to open as a provision shop. There was also found a large quantity of ginger, stolen from a maker of ginger-beer. The accused in the witness-box explained that he bought the goods from a traveller, who came next day with a carman and delivered the goods. He gave in detail the prices, which one of the jury said he knew to be the correct

price at the time. He paid in cash £21. "Where is the receipt?" asked a juror. The accused replied that he asked for a receipt, but the traveller, finding he had not an invoice with him, promised to send it by post. Unfortunately, he did not know the name of the firm from whom he bought. This was serious, but the accused had been in business for a great many years and bore a high character. An extraordinary incident entirely altered the whole course of the case. Counsel for the prosecution asked to be allowed to call a new witness of whose evidence no notice had been given. Mr. Wallace asked me with good-humoured indifference if I objected. I had no idea what the evidence was, but felt certain that the prejudice caused by an objection would be very great with this jury. I did not object. The new witness was a Customs officer, who had visited the accused, while this case was pending at the police-court, to inquire about some tea upon which duty had not been paid. In that interview the accused practically confessed his guilt of this charge, expressing the fear he would get six months. He had not said a word of this to his solicitor. The learned Chairman, always intolerant of any unfairness on the part of the prosecution, became passionately indignant, declaring if he had

known what the evidence was he would never have allowed it to be sprung on the prisoner at the very last moment, while it was known to the police when the case was before the magistrate. It was wholly contrary to the spirit of our administration of criminal justice. In summing-up his indignation quite carried him away. With flushed face and in vehement tones he positively directed the jury to disregard it altogether, and they, deeply influenced by his earnest eloquence, all meekly nodded acquiescence. They realized at last that they were not the only authority taking an active part in the trial. But under such circumstances it was impossible for them to accept the innocent interpretation of the accused's transaction. They convicted.

Although these cases illustrate characteristic types of juries they are far from being exhaustive; the varieties are countless. Not only does the collective temper of the jury differ, but individual jurors may also exhibit quite a distinctive habit of mind. They are the impossible men whom counsel in a hopeless case rely upon for a disagreement sometimes equivalent to an acquittal.

## CHAPTER XI

### SIR WILLIAM CHARLEY

I THINK I more completely dominated the mind of Sir William Charley than any other barrister who practised before him. It was an achievement, not perhaps entitling me to much credit, that required patience, gentleness, and good-humour, with simplicity of argument or comment. My friends used to become impatient and angry, scarcely concealing their opinion of the learned judge's intelligence; the only effect of such a mood was, as it were, to shut up hedgehog fashion the approaches to his understanding and make him think he was treated with discourtesy. The success of his career must be a consolation to every young barrister conscious of being dull-witted, if any barrister, young or old, is ever conscious of being dull-witted and is not in the frame of mind so well described by Lord Justice Bowen when he proposed that in the judicial address to Queen Victoria on her Jubilee for the words "conscious as we are of our own imperfec-

tions" should be substituted "conscious as we are of each other's imperfections." His practice, it is true, was quite negligible. I once heard him arguing before three judges at Westminster, and his performance seemed to give them great amusement. He published a book on the Judicature Act, which had some sale, but it was really founded on the work of an industrious young friend of mine, a Welsh barrister named Hughes, who, going home for Christmas, was killed in the terrible railway accident at Abergele. But for two Parliaments he sat in the House of Commons as Conservative Member for Salford. I was in the House on one occasion of which he was ever proud. It was in the dinner hour, the House was almost empty, but Gladstone, with his old-fashioned notion of the duty of its leader to the House of Commons, was present and watchful. Mr. Charley—he was not then Sir William, for his knighthood was one of the rewards of his Common Serjeantcy—dragged in some reference on an Irish land debate to the Irish Church having been thrown at the Liberal Party's feet like pearls before swine. The Prime Minister was tickled by the attack, and immediately rose to give him in his rather ponderous humour an amusing trouncing. Mr. Charley's face was beaming with pride and satisfaction at having



drawn upon himself the undivided attention of the Goliath of his day.

I may perhaps explain here how I came to be in the House of Commons. It has been thought that I had the advantage of early journalistic work. I had not; it was only a daring adventure. For ten years I had the entrée of the Reporters' Gallery and, ardent politician as I was, missed no important debate, being often an eager listener from three in the afternoon to three and four next morning. At the instigation of Cardinal Manning, my father, without any journalistic training, had started a weekly journal to revolutionize the Catholic newspapers, then quite unworthy of an educated body like the English Catholics. It was called, after the Archdiocese, the *Westminster Gazette*. Though continued for ten years, it was a disastrous failure, and inflicted severe financial loss on my father. It was as some compensation for this loss that the Cardinal later entrusted to my father his diaries and letters to write the Life which evoked so much controversy. But I turned the *Westminster Gazette* to account, for I applied to the Serjeant-at-Arms, Lord Charles Russell, for a Sessional pass to the gallery. Each year I dreaded when applying for a renewal to be told that the *Westminster Gazette* had no claim

whatever to representation in the gallery. I wrote nothing but occasional parliamentary sketches in the style just then begun by Sir Henry Lucy, but my sketches were the descriptions of a youthful enthusiast, not of a cynical critic.

. But though sadly deficient in the essential qualifications of a judge of a great court, Sir William Charley was possessed in superabundance of all other good qualities. It was to this superabundance he owed his election by the Common Council. Montagu Williams used gleefully to describe the experience of a Common Councilman when he arrived at his office in the morning. He would find Besley comfortably seated in his arm-chair smoking a big cigar; Bushby, the police magistrate, would be waiting on the stairs and Charley on the doormat, all eager to canvass him in their diverse ways. It was at this Charley scored. When the news of the election came up, I was before Mr. Commissioner Kerr, and I passed him up a note. He read it, and threw himself back on the Bench with a hearty laugh. It was the way in which most men who knew him received the news of his election. It was the death-blow of the system of electing the City judges.

Sir William was overflowing in his hos-

pitality; he gave a banquet every October to the Bar to meet the Lord Mayor elect; it was a hazardous system, for once at least the Lord Mayor elect was not the Lord Mayor elected. In every respect he was most kind and considerate to the counsel who appeared before him, whether they were hardened veterans or only nervous novices.

Once when appearing before him William Willis, Q.C., whose pupil he had been, told me how he had taught him. He would repeat some simple proposition again and again and again; at length in the depths of his gentle blue eyes he would see with satisfaction a glimmer of perception.

That such a judge should have done so little mischief in the discharge of his judicial duties was remarkable. There were cases, however, in which his sentences were shocking. One young man, known as the King of the Coiners, suffered at his hands twelve years' penal servitude. He deserved five or perhaps seven years, but Sir William allowed himself, in spite of my protest, to be unduly influenced by unchecked statements made privately by lads convicted of passing bad money. Otherwise Sir William was only responsible for facilitating the return to their old courses of many dangerous criminals; but they usually in time

met their just punishment. It is the conviction of innocent men that is irreparable.

A man who had been drinking elsewhere visited a club and was robbed of his jewellery and money. The manager of the club was looking on, and the victim appealing to him for help, he only turned and walked to the other end of the bar. The doorkeeper was also in sight, but did not interfere. The victim got away and complained to a policeman, who took no notice of him. Next morning he went to the police-station. In the evening a couple of detectives interrogated the manager at the club. He not only denied having seen the robbery, but denied having seen the victim at all. While the officers were in conversation with him the accused and two other men entered. Immediately the manager furtively waved his hand at them, and they went out. The officers having observed the signal followed, and on the prosecutor identifying the accused as one of his assailants, arrested him. The manager and the doorkeeper were afterwards taken at the suggestion of the magistrate. Sir William Charley stopped the case against the doorkeeper. A similar contention was successfully made on behalf of the manager.

I had to defend the remaining prisoner ;

mine was a sorry plight after the judicial acquittal of the others. The hostility of the jury had been shown by indignant observations about waste of time and murmurings during the cross-examination. I hazarded what I thought was the judicious line. I vigorously denounced these bogus clubs, so injurious to legitimate trade and so calculated to give rise to all manner of lawlessness, and then rushed upon the jury with an elaborate argument to show that the gentleman was not in a fit state to identify his assailant, and must have been deplorably intoxicated for the constable to whom he complained to have paid no heed to his complaint. The learned Common Serjeant, with his painfully halting and disconnected style of summing-up, was powerless to influence a jury. In this case, though they had been hostile to me, he could not win them back from me. They returned a verdict of not guilty. Sir William gravely remarked that he did not concur in the verdict.

Powerless to influence a jury, he was incapable in any difficulty of giving them intelligible guidance. Two men, father and son, carpenters by trade, had a workshop that served the purpose of a bank for counterfeit coin and a temporary depository for stolen property. Somebody informed the police that

a quantity of china, the proceeds of a recent robbery, was stored in the shop. Officers called, finding the accused innocently at work, and inquired of the father if he had any china. He denied having any, and when a search was begun he said that everything there was his. A brief search led to the discovery of an immense quantity of bad coin of all denominations wrapped singly in tissue-paper ready for issue. For at least twenty years no such quantity of bad coin had been brought to the Old Bailey. There was also found part proceeds of some six or eight burglaries, as well as watches stolen during recent riots, and a large quantity of goods stolen from neighbouring manufacturers by their servants. For the father there was no defence whatever on the charge of being a receiver of stolen property. My instructions had been to plead in mitigation for the father and to try to get the son off altogether. At the last moment I made the father plead not guilty to the coin charge, and fought for both father and son on the ground that they only took care of the coin for the coiner and did not intend to utter it. Not an impossible defence before Sir William. But the jury, naturally after the summing-up were in a state of complete confusion as to what they were trying. They consulted for a long

time. At last the foreman inquired whether there was any evidence that the prisoners had uttered bad coin. The judge told them they had nothing to do with uttering the coin but only with possession with intent to utter. They convicted both prisoners. It was so obviously an unsafe verdict as against the son, even if justifiable against the father, that I asked the judge to inquire if the jury were convinced that the son acted in concert with his father. They replied that they saw no distinction between them. Although not indispensable, another trial was possible, as the son had pleaded not guilty to the receiving charges. Some days later the same evidence was given before another jury, and the only question was the guilty participation of the son. The jury, who received little assistance from the judge, retired at one o'clock; at 2.30 they sent in a message that they were equally divided, with no hope of agreement. Sir William Charley, upon whose mind it had then dawned that further trial was unnecessary, as the father had pleaded guilty and the son had been convicted on the coin indictment, was disposed to discharge the jury and sentence the prisoners. I found it necessary to be vehement, and I boldly declared that the verdict of the former jury, so far as the son was concerned, was

a wrong one, and I insisted on having the issue fairly tried out. Sir William collapsed at my insistence, and the jury were left to fight it out. At four o'clock they had agreed on a special verdict: that the son knew his father received stolen goods, but took no part in it himself. This was a verdict of not guilty, and I succeeded in getting the son released without punishment. The father was sent to penal servitude for seven years.

But Sir William's days of office were drawing to a close. Aldermen were of course frequently beside him on the Bench, and some must have perceived how impossible he was as a judge. Soon after the appointment of Sir Charles Hall as Recorder very strong pressure by the Lord Mayor of the day was brought to bear on Sir William to resign and accept his full salary as pension. Very reluctantly he yielded, for he was supremely unconscious of any judicial inadequacy. It was the psychological moment, for Mr. Forest Fulton had just failed to hold South-West Ham against Mr. Keir Hardie. The Lord Chancellor appointed Mr. Forest Fulton Common Serjeant, gave him a silk gown, and he received the honour of knighthood. It was the beginning of a new régime.



## CHAPTER XII

### PERSISTENT OFFENDERS

#### 1. A CAPITALIST AND ORGANIZER

THIS man was the moving spirit in many big robberies. He was possessed of means as well as of great ability. He suffered terrible sentences. No sooner was he released than he returned undaunted to his old courses. When a mere boy he was, on a first conviction, sent to penal servitude for five years for sheep-stealing. It was probably the cause of his criminal career.

My first experience of him was when junior to Willis, Q.C., who defended an auctioneer charged with having received from him a quantity of stolen furniture. He and another man visited the house of a well-known actor, and in his absence presented his housekeeper with what purported to be a letter from her master directing her to allow the bearer to remove the furniture. They coolly carted away the furniture to the auction-room, where it was sold by the auctioneer. Tried before Sir

Peter Edlin, the hapless auctioneer, a man of excellent character and fair business, was convicted and sent to prison for twelve months. The persistent offender for the second time went to penal servitude for five years.

His next exploit was to organize a daring robbery from a jeweller's shop. Two men, in shirt-sleeves and aprons like working men, under the eyes of numerous passers-by in one of the busiest spots in the Strand, quietly unfastening from the entrance of the shop a huge case of diamond ornaments, drove off with it in a hansom-cab. The persistent offender was arrested but discharged for want of evidence. Through the cabman one of the men in shirt-sleeves was identified. He was sentenced to five years' penal servitude. The jewellery was never traced.

Later, I defended a man charged with having obtained a diamond ring worth £40 on the faith of a worthless cheque. The persistent offender, to exonerate this man, wrote an anonymous letter declaring he was innocent and informing the police where the ring was pawned. It was an unwise letter, prompted by an indiscreet solicitor, who was soon after himself convicted of fraud. The ring was found at the pawnbroker's, but the assistant, quite in error, said it was the accused who pledged it. At

the police-court I established an alibi for him.<sup>1</sup> At the trial the prosecution, taken up by the Treasury, accepted the alibi and threw over the pawnbroker's assistant. But they called Gurrin, the handwriting expert, to prove that the worthless cheque was in the handwriting of the accused. Gurrin admitted to me that the handwriting in the pawnbroker's contract book was the same as the handwriting of the anonymous letter, the work of the persistent offender.

While this case was pending the persistent offender appeared in a new character. He was prosecuting a man for robbing him of his watch and breast pin in a public-house. I was instructed to defend the accused; my knowledge of the persistent offender's exploits made some sensational cross-examination. But the accused had not led a blameless life. It was thought prudent to return the plunder. Just before leaving for Monte Carlo, on business, two of his friends visited the persistent offender and returned him his pin. On the remand he told the magistrate he wished to withdraw the charge. An experienced detective who was well acquainted with all the parties interposed and a further remand was ordered.

The persistent offender, with the accused's

<sup>1</sup> This was the case amusingly described in the *Pall Mall Gazette* (see p. 328).

friends pressing him on one side and the detective officer on the other, wisely surrendered to the police, and explained that he had only wished to withdraw because he was in fear of his life from the accused's friends. Still, there was only the somewhat tainted evidence of the persistent offender. The aid of the Treasury was invoked. It was discovered that the accused had pawned the stolen watch. The trial lasted a whole day at the Central Criminal Court, ending in a conviction and five years' penal servitude.

The persistent offender had acquired a taste for prosecuting. He charged two young ladies living in his house with having robbed him of clothes and other property. They were defended by the counsel who represented the Treasury in his other prosecution. They were discharged. Against one of them the persistent offender soon after brought an action in the County Court in respect of jewellery sold to her. He swore that his establishment was a most respectable lodging-house. The judge gave judgment against him.

Two years later the persistent offender was convicted before the Recorder, Sir Charles Hall, of obtaining a large quantity of jewellery by fraud, and for the third time was sent to penal servitude for five years.

When again the time came for him to need it, he still had confidence in my advocacy. At his urgent request I was taken to Marlborough Street Police Court. He had aged considerably since I last saw him, but the finely shaped head with scanty grey hair, and the dark, shifty eyes still made him a striking personality.

His one anxiety was that I should save him from the Central Criminal Court. In this I succeeded, obtaining a committal to the London Sessions. But his plight was hopeless. There were three charges against him. In the first case having, on a pretence of ordering clothes, himself surveyed the premises, a van one evening was drawn up in a mews at the back of a West End tailor's shop, a back door was forced, and eight hundred yards of cloth quickly put into the van. No one suspected the transaction. Discovery was quite accidental. Next evening, two detectives, really watching for something else, saw a van in Soho being loaded with rolls of cloth that had been temporarily stored in the house of a confederate. The persistent offender was superintending the transfer. He was arrested. At a very convenient warehouse, rented by him for the reception of suddenly acquired plunder, were found some valuable violins, part of £800 worth of property stolen from a curiosity shop, and some remnants of a theft from a Regent Street costumier.

He pleaded guilty before Mr. McConnell. The detective officer, his former ally, declared he was the criminal's capitalist and master mind, supplying the brains as well as the funds for carrying out well-arranged crimes.

I urged all I could in mitigation of punishment. The only solid fact I had, that he was carrying on a substantial legitimate business, proved by several representatives of City firms, had the disadvantage of proving his means as well as his capacity to earn a living without recourse to crime. This time his sentence to penal servitude was seven years.

The persistent offender in due course appeared again. He had to answer at London Sessions an insignificant charge of fraud upon which I was so inadequately instructed, almost at the last moment, that I failed to secure the acquittal the case deserved. Mr. Hedderwick, the vacation judge, sent him to penal servitude for four years. He had been ordered in all twenty-seven years' penal servitude without a single term of imprisonment. Punishment neither cured nor deterred him.

## 2. A HUMBLE OPERATOR

This man was a persistent offender in a lower sphere and on a humbler scale. One day he entered a jeweller's shop in Bayswater.

His appearance and manner easily won the confidence of the tradesman. He displayed to him tray after tray of pins. One was chosen, to be purchased at a future call subject to the approval of a friend. When he had gone the jeweller found a common pin substituted in a tray for a valuable diamond pin.

Delayed for a time by being alone in the shop, as the persistent offender was probably well aware, the jeweller was yet able to see him in the distance. He was arrested, but the stolen pin was not found upon him. He was acquitted at Sessions. I heard afterwards what became of the pin. He threw it just inside the gardens of Porchester Terrace. When his devoted wife, of whom more later, came to the station he told her where it was. She went there and found it.

With another jeweller he was less fortunate. While the assistant was recording the measurement of a ring that was to be altered, he slipped another ring into his pocket. The assistant was unconscious of the theft. But a singular young man, fresh from the country, struck by something suspicious in the accused's demeanour, watched him enter the shop, and looking through the window, saw him take the ring from the counter. He gave him into custody. Again the stolen article was not found

upon him. The case was tried before Mr. Warry. I could not shake the testimony of the young man from the country. The sentence was twelve months' imprisonment. "Gentlemen," cried the persistent offender in earnest tones as he left the dock, "you have put away an innocent man!"

While he was serving this sentence his wife had need of my advocacy. She was a handsome woman, much younger than her husband; she had a past, but a past quite free from legal crime. She was charged with an offence at that time only triable at Quarter Sessions. Mr. Prentice was sitting as Deputy for Sir Peter Edlin. She could not have had a more favourable judge. My plea in mitigation was sweetly simple. The accused had a very bad husband (which was quite true), he was then in prison for larceny (also quite true), and in his absence, unable properly to control her house, her lady lodgers had fallen into bad habits. She came of a respectable family (which was true), and I produced her old father, a white-haired veteran, in the uniform of his rank in the service from which he had retired. The learned judge was deeply moved by the sad position of the interesting daughter (who was discreetly weeping) of such an interesting father. He gave her her liberty to get



away from her bad husband, and share her old father's retirement in a remote county.

Not very long after, I defended with success her bad husband, who was charged with throwing a gentleman out of a similar house managed by the interesting daughter, and stealing his watch and chain.

Husband and wife together visited a boot-shop in Regent Street. An expensive pair of lady's boots was missed. The wife got out of sight. The husband was taken with the boots in his great-coat pocket. He rejected my advice to plead guilty. He again went to prison.

After an interval of years, I was consulted on behalf of a lady who kept a boarding-house in a good quarter of London. Her husband had for a long time been in Paris from necessity, not from choice. The question for my advice was whether he could safely return. He had been dealing with some valuable jewellery, the proceeds of a seaside burglary, and, hearing that it had become known to the police, he had betaken himself to Paris in the hope that the trouble would blow over. He was now getting an old man and was unhappy in Paris. The police had said they were not going to the expense of extradition, but they would arrest him if they found him in London.

I could only advise that in time the witness connecting him with the transaction might die ; otherwise there was safety only in Paris. His longing for home proved irresistible. On the Queen's Jubilee Day he was seen in Piccadilly and arrested. It was this persistent offender. Tried at Lewes Assizes, he was fortunate in escaping with only three months' imprisonment.

### 3. A PERSISTENT FAMILY

In only one case to my knowledge have I defended members of three generations of the same family. The grandfather when he first came into my hands had already undergone seven years' penal servitude, but he was in prosperous circumstances, keeping two shops in the centre of London. A number of umbrellas, proceeds of a burglary in which £300 worth of property was stolen, were traced to him. Four umbrellas had been bought by four people from a certain man. He declared so positively that he had only had one, bought from a stranger at a market, that the police were for the moment satisfied. On further information they arrested him. He then confessed he had bought sixteen from the grandfather but burnt them after the visit of the police.

The officers visited the grandfather. His wife indiscreetly tried to make away with a

half-burnt umbrella she had under her apron. In a stove were found ashes of burnt umbrellas.

At the grandfather's other shop was found a silver-mounted dressing-bag bearing its owner's initials. One silver-mounted flask was missing. The bag had recently been stolen from a neighbouring hotel. As long as the purchaser of the sixteen umbrellas was in the dock there was very little evidence against the grandfather. The Treasury abandoned the prosecution against him, calling him as a witness for the Crown. He swore he bought the umbrellas somewhat below their value from the grandfather shortly after the burglary. At the police-court I administered a little sharp cross-examination. He was a most unwilling informer and frightened at what he might be asked about. My instructions were that he had the silver-mounted flask missing from the dressing-case.

The grandfather had to explain from whom he got the umbrellas. He could not then give evidence himself. The defence, suggested in the only way it could then be disclosed, was that he bought them from a man named Wilson at a certain market. The informer, delighted to be treated kindly by me, said he knew the man well, but he had lately disappeared.

As four other persons, presumably innocent

purchasers, besides the informer, had admitted dealing with umbrellas and were witnesses for the Crown, the jury readily accepted my explanation that the grandfather, too, was an innocent purchaser from the wicked man who had absconded. His wife was also acquitted on the ground of marital coercion.

Soon after she needed assistance on a serious charge under the Criminal Law Amendment Act, then recently passed. However, it collapsed at the police-court, very much to the relief of the good lady, who appeared in much trepidation.

The next time I saw the grandfather he was foreman of the jury at the London Sessions, assisting Mr. Loveland in the administration of justice. I was defending an alleged receiver of stolen property; with such a grateful and expert friend on the jury I can claim no credit for his acquittal.

The unwilling informer in the umbrella case I saw twice again. Once he, too, evidently in prosperous circumstances, was on the jury in the first court at London Sessions before Mr. McConnell. He nodded a cheerful recognition. The second time he was a witness for the Crown in a prosecution I was conducting.

The son-in-law and the daughter, in order of time, next came into my hands. The son-in-law was a respectable man in one employ-

ment for many years. The Grand Jury ignored the bill against him. The daughter, inheriting the family instincts, was said to be a systematic receiver of stolen property. Her house was in a busy quarter, very convenient for thieves who need a handy market for their plunder. The police kept it under observation. One night two sewing-machines were seen carried in. The police followed, and found in the parlour the two machines and the daughter. "This man brought them to me," she said, "but I told him to take them away." The sewing-machines had just been stolen from a van. In one room was a large roll of carpet, also stolen from a van; in another a roll of oilcloth stolen from a shop door, and some mantel-borders, part proceeds of a burglary. There were, besides the paper wrapper of a bundle of men's pants missed from one of Carter Paterson's carts, a suspicious hamper, and a large quantity of remnants of cloth, silk, and sealskin. At the trial the well of the court was completely blocked by the goods displayed for the edification of the jury.

In conference I pointed out that the accused must go into the witness-box and explain the possession of the stolen property. When I put her in the witness-box she was nervous and tearful, but keenly intelligent. She lied—if she lied—just like truth, only becoming

tearful and so faint as to need a seat when cross-examined. She explained how one day—she prudently could not remember which day or what time, lest the police should have been watching—a man like a hawker came with the carpet and asked her to buy it. He wanted 32s.; she offered 28s. and he took 30s.; its owner put its value at 50s. The man had a pony-cart at the end of the street, she adroitly explained because it was a very heavy roll. When she had bought it he pressed her to buy two mantel-borders. She gave 8s. for them. This was very convenient; for the owner having put the value at 5s. 6d., it enabled me to point out how the hawker, after the usual custom, having sold the carpet cheap, recouped himself out of the price of the mantel-borders. She added, very innocently, he asked her if she would buy some oilcloth; she declined because she had already bought some, completing the refurnishing of her bedroom. It was some day before—again she could not say which day or what hour—she bought the stolen oilcloth at a street stall for 10s., its price being 21s. But the paper wrapper of the pants was a difficulty; her solution was womanly and effective. “I never saw it at all,” she said; “I had not been in the kitchen for a fortnight, for my dear baby” (the interesting infant had been brought into

the dock in sight of the jury and then handed out to the father) "had been given over by the doctor, and I never left its bedside." Still, the wrapper and a remark she made to the police on arrest, that her husband was innocent, were serious obstacles. The jury considered for a long time, but ultimately convicted with a strong recommendation to mercy on account of her character—I had called a host of very imposing witnesses to testify to her reputation. The result was perfectly satisfactory. When I rose, Mr. McConnell said: "You need not trouble. I think this was rather a case of indiscretion than of deliberate receiving, and I shall release her on her husband's recognizances." The back of the court, full of friends with familiar faces, prominent being the experienced grandfather, burst into grateful applause.

The next of the family to need my help was a grand-uncle. He was a worthy member of the family. For some ten years he had been at liberty after the substantial sentences of ten, eight, and finally, the times having grown milder, seven years' penal servitude. He was now implicated in a remarkable robbery. A firm of jewellers had two porters in whom they had such absolute confidence that they declined the special protection afforded by the police to jewellers who leave

a Judas window in their shutters for police observation at night. They were content to leave their valuable stock under the charge of these two men, providing them with beds in the shop. One of these too trusted porters happened to have a school friend who had gone wrong, and been convicted of felony; he was the tempter. They arranged to ransack the jeweller's cases, and to bore a hole from the adjoining passage and break open a fan-light so as to suggest a burglary. Some £3,000 worth of jewellery was handed to the tempter and he took it straightway to the grand-uncle. The police gave no credence to the supposed burglary; the jeweller would entertain no suspicion of the porters. Inspector Kane showed characteristic patience; he contentedly watched and waited and made inquiries. Somehow he got to know that a young woman who lived with the dishonest schoolfellow had been wearing valuable jewellery. Very early one morning the inspector and his subordinates paid a surprise visit, arresting the man and the young woman. The man on being aroused from his sleep let his anger get the better of his discretion: "Who has given me away? There were only three in it!" At the station, still indignant at the supposed treachery of his accomplices, and without waiting to learn what the police knew, which



was really nothing, he disclosed the whole business, even down to the disposal of the plunder. The officers hurried off to the grand-uncle's lodgings, securing him, some of the stolen jewellery, three hundred sovereigns, and some cheques that put them on the track of another receiver, who in vain at the trial pleaded not guilty. Another three hundred sovereigns, which one of the porters had endeavoured to conceal, were also recovered. In the course of the inquiry all the accused made copious statements to the inspector, leaving not a detail unproved.

For the grand-uncle I advised pleading guilty, with full disclosure of his part in the matter. He acted on the advice and secured the inspector's cordial support for my plea in mitigation of punishment. It was an extremely strong fact in his favour that notwithstanding his terrible previous career he had been, as the police admitted, for ten years earning an honest livelihood. I made an impression on Mr. McConnell. To the prisoner's great delight his sentence was the trifle, to him, of three years' penal servitude.

The exploits of the granddaughter and of the grandson were quite commonplace. The granddaughter I was able to get released as a first offender ; the grandson at another time was sent to prison for two years for cycle-stealing.

## CHAPTER XIII

### MR. WILLIAM ROBERT McCONNELL

THE appointment of Mr. McConnell to the Chairmanship of the London Sessions created a revolution. It could not be otherwise, for Sir Peter and Mr. McConnell had nothing in common. Everything was speedily changed. Mr. McConnell was at once given the salary of £2,000 a year which poor Sir Peter could never obtain; Mr. Loveland, now appointed by the Crown, received as Deputy Chairman Sir Peter's salary of £1,500 a year; and both judges had, as a right, a month's vacation every year, with a vacation deputy appointed by the Home Office.

While the business of the Sessions was dispatched with promptitude, holidays were not ignored as they were by Sir Peter Edlin; the work was no longer loved for itself. The Sessions began on Tuesday instead of Monday, and the week-end was secured by never sitting on Saturday. The Chairman came early and sat late. Speech-making in his court was a thing of the past; he vigorously discouraged

it in others ; he never indulged in it himself. Having neither the masterful fluency of his predecessor nor the easy eloquence of his successor, his summings-up were expressively terse, if not colloquial. The solemn and dignified phrases of Sir Peter were heard no more. The prisoner was often addressed or referred to as a "chap." When a detective officer was laboriously recounting the prisoner's previous misdeeds, he was impatiently asked to tell the court something good about him. The officer's astonishment made him speechless. It took the detective police some years to acquire the industry they now display in finding out something good about a prisoner, and their eagerness in describing it. Failing the officer, Mr. McConnell would turn to the prisoner and beg him to say something good about himself. His perplexity was painful ; he would become as speechless as the detective.

The trial of a prisoner became a reality and not a form. The Chairman gave little if any assistance to the prosecution, however feebly conducted, and he enforced their duty of proving a case beyond reasonable doubt ; that ceased to be a lifeless phrase and became a practical obligation. If the evidence were clear and conclusive, he was impatient with the defence ; if it were not clear and con-

clusive he made the defence unnecessary. This was not good for defending counsel ; the court ceased to be a school of advocacy so far as cross-examination and speech-making were concerned, but it became a good school of tactics. Sometimes, when I felt a case must be fought out, I got it sent to Mr. Loveland, where every latitude was certain to be given. Mr. Loveland used to greet my appearance with a whimsical smile of surprise and express his pleasure at seeing me. I no longer passed my days in his court, and these visits were rare. But he became affected by his environment ; he would sometimes abruptly stop cases or ask the jury whether they wanted to hear any more. The Mr. Loveland of Sir Peter's early days would have held up his hands in holy horror at the Mr. Loveland of the later days of Mr. McConnell. But he could not assimilate Mr. Wallace's methods, and when he began to talk about retiring I told him he would never be happy without having prisoners to try. I sincerely hope I was wrong.

In his sentences Mr. McConnell showed a complete disregard for the traditional punishments. But he acted on no particular standard, and was often moved either to leniency or to severity by the impulse of the moment. His impulses, however, were only what one would

expect from a kind-hearted man, sympathetic with the sufferings of others. A man who robbed a poor woman would be certain of severe punishment. Once I represented a man who plundered a working man's house. There were circumstances so exceptional, that I had had no doubt that he would refrain from sending him to prison, but I had not made sufficient allowance for an element of religious humbug, of which he had a passionate horror. At the age of sixteen the prisoner had been sent to prison for twelve months ; then followed seven years', ten years', and eight years' penal servitude. On his release the Salvation Army set him up in a shop, and for twelve years he led an honest, hard-working life. He was a witness in a Home Office departmental inquiry, and gave important evidence about convict life in penal servitude, winning the sympathy of the Under Secretary of State, who became a generous friend to him. But though an industrious and capable workman, he proved a bad man of business, and was continually in money difficulties. Nevertheless, he had won the confidence of many influential men, who were prompt to come to his help. His friends enabled him to get bail, and his solicitor brought him to me. I was struck by his intelligence, shrewdness, and ready plausibility.

He told me of what he had convinced his friends, that he had been led into this crime, quite unconsciously, by a wicked associate of his old life whom he accidentally met, and owing to the drink his companion had given him, did not recognize that he was committing a burglary. The evidence was that he was standing at the door while the other man handed out to him the plunder, which, when the constable seized him, he tried to drop unseen in the dark passage of the house. I let him see that this was not a practicable defence, and he at once agreed to plead guilty. Mr. McConnell was very stormy when the case began—I suspected some injudicious friend had been making a private appeal to him. He sneered and carped at the witnesses I called, who were all good men, rich in unctuousness, and given to sermonizing insufferable to the Chairman, and disregarding their testimony, he warmly denounced the prisoner as a humbug, who with advantages very few convicts possess and not driven by want or necessity, took again to crime, and to crime of a particularly mean and cruel nature—an attempt to plunder the poor home of a working man. He gave him nine months, adding that it was in deference to some of his brother justices, for he himself would not have been so lenient.

The first day he sat I appeared for a man who pleaded guilty to stealing a watch from a person after having twice undergone five years' penal servitude for similar offences. The new Chairman gave him a month's imprisonment, and advised him to apply to the Home Office for a fresh licence for his unexpired term. The happy man conveyed his astonishment to the warder by inquiring in unpolished language if the learned judge was in his right mind.

But Mr. McConnell, especially in his later years, suffered much from bad health. The social conviviality of his early Bohemian days had left him full of pains and aches. At times under stress of pain he was very irritable. I had many kind notes from him in days of suffering.

DEAR PURCELL,

I am suffering from a damnable attack of lumbago ; can hardly crawl and ought to be in bed. If I am snappy pardon me and blame the suffering.

Yours,

W. R. McCONNELL.

Again, when a case of mine had lasted too long :—

This is a sample of your favourite first of the jury's short cases. Pity the poor lumbagonist.

He often asked me to help him, by defending prisoners, to lighten his responsibility. In one note he mentions two cases—"both sporting cases with good defences. Will you assist me?" Once there was an incident in a case that provoked much laughter, in which the Chairman quite good-humouredly joined. Some inquiries had been made about a man I defended, and in the absence of the detective a raw young constable had been put up to describe the result. He was very nervous and fumbled with his notebook. I asked him to hand it to me. This was the final paragraph: "Drink is his failing. When he is in drink he does things that are rash." And then came "WILLIAM ROBERT McCONNELL." When the laughter had subsided Mr. McConnell wanted to know if every policeman who came before him wrote his name in his notebook. It was explained that, being a young officer, the name of the judge was given to him for making his official report, and he had entered his name under the result of his inquiries about the prisoner.

Only once had I seriously to fight Mr. McConnell, but it did not even momentarily disturb our good relations. It was a singular case.

There were three indictments for different



lots of stolen property. A remarkable personage was introduced into the case, whether truthfully or untruthfully I know not, but he constituted the basis of the defence. He was a man of education and position who had been manager at a large firm of gold refiners, and while in that position he had been convicted of having received a vanload of ingots of silver, stolen from the Midland Railway Company, and sent to penal servitude. He had recently been released. Banknotes to the value of £80 stolen by burglars from a public-house were traced to him. Some inquiry had been made of him, and on a subsequent visit, which would have been his arrest, the police found he had shot himself. The defence of the prisoner in my case was that he received part of the stolen property from this man. If it was false, it was a clever and ingenious explanation.

The first indictment tried charged the receiving of a silver watch, which with some fourteen other articles of jewellery was stolen from a house on July 16th. This watch was pawned by the prisoner on August 26th. At his house were found nine pawn tickets referring to this watch and eight others. They were pawned in different names at different shops, but on the same day,

August 26th. Prisoner when charged said, "I can clear myself." I put him in the box, and this was his explanation: "Some six or eight months ago I went to a gilding establishment and had my chain regilt. I got into conversation with the manager. When he heard that I was a commercial traveller, he gave me some of his price-lists and said I might find him customers." This was the released convict. The accused declared that four days before this man committed suicide, August 25th, he gave him nine silver watches, asking him to pawn them for whatever they would fetch. It was on this errand he pawned them at the different pawn-brokers', and these were the watches in the present case. On Monday, August 28th, the very day before the suicide, the accused called on him and handed him the proceeds of the pledgings; the man gave him fifteen shillings for his trouble, returning him the duplicates, saying he might make another shilling or two upon them for himself. He took them home, where on September 1st they were found by the police. With the accused at this interview with the ex-convict was a curious individual, who described himself, no doubt truly but too frankly, as a "manufacturer of antique furniture." Though he did not know the ex-convict, he deposed

to the facts of the transaction, the money, and a paper packet of something, and fixed the day because it was the day after his wife's birthday, when the accused, whom he described as a "first-class gentleman" and "a jovial man in every way," had passed the day at his house. Mr. McConnell made much of the pawn tickets and the different names, and was not favourably impressed by the maker of antique furniture, who gave his evidence in such a jubilant way as to suggest he was enjoying the manufacture of a tissue of lies. Mr. McConnell asked prisoner if that was his first transaction in watches. He said, "Yes." Thereupon prosecuting counsel made use of one of the other cases indicted, where he had been stopped on September 1st pawning another watch stolen from its owner at the Zoological Gardens on July 24th. This watch prisoner, when before the magistrate, had said he had bought on August 16th from a strange sailor met in a public-house. When confronted with this statement, he explained that in his answer to the Chairman he meant his first pawning, not purchasing, transaction in watches. The question was shrewd, but the explanation was adroit.

I elicited that he was first arrested for that watch, released on bail, and three hours after

his arrival home the police found the pawn tickets on his chimneypiece, from whence, if he had suspected the transaction, he had had ample time to make away with them.

The ex-convict explanation triumphed, and the jury acquitted.

I could not reasonably complain that the Chairman approved of the prisoner being tried on the second indictment.

The facts of this indictment were simple: Watch, stolen at the Zoological Gardens on July 24th, found in prisoner's hands being tendered in pledge on September 1st. Explanation: "On August 16th I was in a public-house, where a seafaring sort of man forced his conversation on me, saying he had been on the drink and wanted money to rejoin his ship—would I give him £2 for his watch. 'No, I don't want it.'" Further pressure, and it is sold for £1. To this story the prisoner swore. This is my trump card. The sailor story, after all not in itself absolutely incredible, must be true; for why should he invent such a dangerous explanation of the possession of the stolen watch, when he could easily have put it on the ex-convict's back, and said, like the other nine watches, it had come from him? He did not avail himself of that easy lie, but told the dangerous truth. Mr. McConnell

summed up against me ; but the jury, to his obvious disgust, again acquitted, adding that they thought prisoner was to blame for buying the watch from the sailor, thus showing that they believed the story.

Then the Chairman said the third indictment must be tried. As that indictment related to another of the nine watches it was equally covered by the defence which the jury had accepted on the first indictment. The learned Chairman had lost his temper, the weather was warm, and the case, commencing at 11.30, had lasted until four. Under such conditions the Chairman's perception was not infallible. Again the evidence was repeated. An acute and cool-headed critic, now a police magistrate, sitting next me, whispered, "You must go for the Chairman this time." I felt he was right, and, as I was calling other witnesses besides the prisoner, claimed my right of opening my defence ; but, instead of opening the defence, I vigorously denounced this third trial. I put the prisoner again in the box. I had scarcely begun his evidence before I observed a change in the Chairman. Soon he interposed, telling the jury that he thought it was unnecessary to proceed farther. The jury promptly acquiesced and acquitted. My attack had brought Mr. McConnell back to his usual

impartial mood ; he seemed to have momentarily caught on some of the arbitrary characteristics of Sir Peter Edlin.

There were two cases tried, one about a year after the other, which illustrated the Chairman's judicial temperament. They were exceptional cases. I have never heard of another. They were charges against gold-workers of stealing gold. The prosecution, conducted by Muir and Leycester, contended that the guilt of one of the accused men was proved conclusively by arithmetic. Mr. McConnell was as impatient of arithmetic as he was of rhetoric, and he would not have it. Gold given out had to be periodically accounted for. The gold left over, the gold used on jobs, and the sweepings, which were melted up and assayed, should equal the gold given out. The accused on this accounting was considerably short of gold ; therefore he had stolen it. There were weak points in this theory. The men kept their gold in iron cans, supposed to have different locks, but the locks were never tested and the keys were common keys. Although the cans were put in the firm's safe at night, during the day they were left open on the work-table, and at the dinner hour and other times strangers or other employees might be in the workshop. There was a conflict of testimony as to the

accuracy of the estimates of gold used in jobs. The sweepings were wrapped up in paper until melted up, and might be lost.

After the accused had been sent for trial his can was examined to find an article left for repair. There was found among the gold a strip of brass that had been passed through the gold mill to make it look in shape like gold. Closer inspection led to the discovery of other pieces of base metal. The suggestion was that when he weighed up the gold left over he included these pieces of base metal and got credit for more gold than he had. But the prosecution omitted a crucial test. If they had weighed up the gold and it had been short of the prisoner's weight exactly by the weight of the pieces of base metal, their suggestion would have been irresistible, at least arithmetically. It would have made no difference to the Chairman, and he ridiculed the whole incident when I brought out that the accused after being discharged had ample opportunity of taking the base metal out of his can and carrying it away in his pocket. His own explanation was that on being discharged he swept all the base metal on his table into his can. The jury promptly acquitted.

In the other case different men would have gold of different size and shape, according to

their special work. In the accused's can were found pieces of gold not of the size and shape he was working on. He was charged with stealing these pieces of other men's gold. Mr. McConnell fastened at once upon a salient absurdity. If the accused meant stealing these pieces, what would have been easier than to have taken them away instead of leaving them in his gold box to be discovered at any moment? I elicited that the differences between one man's gold and another's were so minute that it would require a very delicate instrument to measure them. When the Chairman insidiously asked the jury to look at the minute fragments the accused was charged with stealing, they could stand it no longer. They said there was no case against the accused. I should have felt much anxiety if these cases had been tried before Sir Peter Edlin and a jury, he had trained into subserviency. Both men were men of high character and long service, and their defence was taken up by their union in thorough belief in their innocence. On each occasion the court was crowded with gold-workers, and many valuable suggestions for cross-examination were sent to me. It is a credit to the numerous gold-workers of London that these are the only two cases that to my knowledge have been sent for trial since 1875.

It was not always to the advantage of a



prisoner when Mr. McConnell asked me to defend him. He appeared to think he was then free to press every adverse fact as vigorously as he could ; it was not done unfairly or unkindly, but from a sense of what was due to the prosecution. A charge against a policeman whom he asked me to defend is an illustration.

A constable of nine years' standing was indicted for stealing a purse from a brother constable. The theft was said to have been committed in the section-house where the men slept. An officer of thirteen months' standing, who had just got into bed, saw the accused, who slept on a lower floor, enter the room, walk to the bed of another officer, take something black from the pocket of the trousers hanging from the bedstead, and immediately leave the room. The witness jumped out of bed and went after him, saying, "You have done a nice thing." This was strong evidence, if true and accurate.

The accused returned to the room, saying something about the missing shoes of another constable, who then came in and complained of missing his shoes ; but not a word was said by the witness of what he had seen. It was only when the two had left the room that the witness aroused the sleeping constable and asked him if he had lost anything. He

missed from his trousers pocket his purse, containing two half-sovereigns and some silver. The accused when sent for came and seated himself on a chair by the side of the trousers. Almost immediately he pointed to something on the floor. When the trousers were raised there was the missing purse. The witness said, "Count the money and see if it is all right." There was a half-sovereign short. The owner felt in his pocket, but there was no half-sovereign. Then the accused put his hand in the pocket and said, "Feel again." When the owner felt again there was the missing coin.

The taking of something from the trousers pocket, as the witness described, might have been explained away as a mistake; but the finding of the purse directly prisoner was in a position to slip it where it was found was sufficiently serious without the further difficulty that immediately after the prisoner had put his hand in the pocket the half-sovereign was found where the owner had just failed to find it. Mr. McConnell took great pains to make these points clear to the jury.

I put the defendant in the witness-box, and he started a defence that I refrained from actually accepting. He declared that when he entered the room in search of the missing shoes he saw the witness out of bed and standing near the prosecutor's trousers. If the witness

had stolen the purse, the unexpected appearance of the accused would alarm him, lead him to think he had been seen, and prompt him to anticipate a charge against himself by charging the other man. But this was a terrible defence. How the half-sovereign got out of the purse and, undetected by the owner when he felt in the pocket, was at once found by the accused when he put his hand in was perhaps sufficiently explained by my suggestion that it slipped out of the purse through a hole there was in the purse, and a man, aroused from deep sleep at two in the morning, might well be so drowsy as to miss the coin with his fingers when he felt for it.

The case lasted several hours, and it was six o'clock when I addressed the jury, feeling far from confident that they were so much with me as afterwards appeared. The Chairman's summing-up left me, I thought, no chance. When the foreman, a particularly energetic man, said with emphasis, "Not guilty, and that is the verdict of us all," there was a burst of applause from a crowded and excited court such as I had never heard. When the Chairman with more than customary fervour thanked me for the assistance I had given the court, his thanks—it was a unique experience—were endorsed by another burst of applause.

## CHAPTER XIV

### SOME ALIBIS GOOD AND OTHERWISE

#### 1. ALIBIS GENERALLY

THE defence of an alibi may endanger an innocent man ; it often convicts the guilty. It always raises a suspicion that it is a fraud. An innocent man can rarely prove conclusively where he was on a particular day, at a particular time ; most men are constantly at the same place about the same time and often with the same people. These people have to admit it was not the only occasion they saw the accused ; they either have no reason or some reason which appears unsatisfactory for fixing the particular day. If the witnesses are relations, their very relationship throws doubt on their testimony. If they are cross-examined as to incidental details, they may, from defective memory or from inattention or from excess of zeal in perfect good faith flatly contradict each other. Above all, the weakness of the alibi withdraws attention from the weakness of the

prosecution. The alibis that are usually successful are those that are false and constructed by acute and intelligent men. One form of such an alibi is generally irresistible. It is where the whole story is true, but the events did not happen on the day of the crime. Two men were indicted for house-breaking in Middlesex on a Sunday afternoon. I called a number of witnesses to prove that they were at a certain hospital visiting a sick friend. One witness was quite independent, the porter at the hospital. The only question about his evidence was that he had not got the visitors'-book, which could not be removed from the hospital. None of the usual tests made any impression on the witnesses. But the learned judge, Mr. Serjeant Cox, elicited from the witnesses for the prosecution that it was a wet evening, from the witnesses for the defence that it was a fine evening; but to no effect, for the evidence had captured the jury and the accused were acquitted. Next morning Mr. Serjeant Cox, who kept a diary of the weather, stated that while the Sunday of the crime was wet the Sunday after was fine. The maker of the alibi had simply shifted the events of the fine Sunday back to the wet Sunday; they only had to remember the day of the month. The next best alibi is one no longer possible; it is the

one-witness alibi. If he were an intelligent witness, he could defy cross-examination. The Prisoners' Evidence Act has destroyed that form of alibi; an alibi proved by prisoner alone is of little or no use. But while the prisoner alone cannot do much for an alibi, he must be called to support it and must be the first witness. A solicitor supplied me with proofs of a very reasonable and good-looking alibi; but the accused had not been admitted to bail. In the course of the case I disclosed in cross-examination that there was an alibi. When I called the prisoner I found to my chagrin that he knew nothing at all about it. It had been made up by his friends for him, but not with him.

Alibis are not nearly so popular as they were in the times of the old-fashioned bludgeon defences, when the witnesses were denounced as liars and the police as corrupt and the judge as unfair. To this style an alibi as a constructive effort was a welcome change; in these days of delicate rapier thrusts and insidious plausibility it is a laborious and unprofitable method of defence.

There were criminals who were adepts in alibi-making. One I defended several times, and I came to regard his alibi with perfect confidence. He was not above the labouring

class by birth, but he was well educated and possessed great cunning. I first defended him when charged with two others with breaking into a cricket pavilion. The secretary happened to go in and noticed a cupboard ajar. Inside he saw three men. He promptly called an attendant. They both had a good look at the culprits and locked the door of the cupboard. The attendant ran for the police, while the secretary kept watch. "Now's our time!" said a voice. "There's only one!" And they burst the door, overthrew the secretary, and decamped. Six weeks later all three were arrested from the description given of them. One, of course, had an alibi ready; it was beautifully elaborated, and the witnesses were intelligent men. The jury promptly acquitted him. The other two men were convicted. An interesting fact then came out. One of them had been previously charged, but acquitted on the strength of an alibi, in which the man acquitted and the third man, a discharged policeman, had been the principal witnesses.

## 2. AN ALIBI WHERE THE WITNESSES WERE BUT THE ACCUSED WAS NOT

A youth was charged with watch-stealing in Farringdon Road. The thief was caught by the prosecutor, but wrenched himself away and

escaped. The prisoner was arrested a few days after by an officer who thought he answered the description. Before the magistrate he called an alibi. Four lads swore that the prisoner was with them on the day of the robbery, and all being out of work, they went for a walk to Highgate Woods, returning by the Archway Road. At the "Archway Tavern" a traction-engine broke down about 6 p.m. (the time of the robbery in Farringdon Road), and they helped to attach horses to it. All the lads except one were respectable and only unemployed through slackness. But the conclusive fact came out by accident. Being informed that a detective had ascertained that a traction-engine did break down at the place and time mentioned, I triumphantly brought out this apparently striking confirmation of the alibi. Without a moment's hesitation came the verdict of acquittal. The witnesses did go to Highgate and did see the traction-engine come to grief, but the prisoner was not with them. If the witnesses had only been cross-examined as to what the prisoner said or did in their presence, each would probably have contradicted the other. So long as they were only asked what they did or saw (the prisoner was not then a competent witness) they were invincible.



## 3. A SUCCESSION OF ALIBIS

The most interesting illustration of the alibi was a case of passing Jubilee sixpences as half-sovereigns. There was a Jubilee issue of sixpences indistinguishable in the moulding from half-sovereigns. Ingenious persons at once availed themselves of the opportunity of profit by gilding the sixpences at a small cost and putting them off as half-sovereigns. These gilded coins were passed to a large extent in different quarters of London, and complaints poured in on the police. A detective-sergeant showed to several of the victims a number of photographs of convicts. Some identified one as the portrait of the man who had swindled them.

When he was arrested his immediate reply was, "Tell me the times and places and I will prove an alibi." Next day on the way to Edgware, where he was charged with an offence in that district, he told the officer he knew the man who had passed these coins. He was a fair man, like himself, dressed like himself, and he met him in a railway-carriage going to a race meeting, when he was openly bragging of his exploits with gilt sixpences.

I was taken to Edgware, and I found that, besides having been identified by a shopkeeper

at Edgeware, three other people from Croydon had identified him for similar offences at Croydon. The Edgeware case was on December 12th, the Croydon cases all on January 10th. All the witnesses before picking him out had seen his prison photograph, but his complexion, height, and general bearing were so striking and distinctive that once seen he would be readily recognized again.

I had instructions about an alibi and about a man who was ready to confess to being the real culprit. I threw cold water upon both defences. I dislike alibis, and I have learned to disbelieve in the man who is prepared to confess that he did it and not the accused, but my clients insisted. Accordingly, at Edgeware I called an alibi for December 12th only, as until that morning no one knew of the Croydon charges. When I called the accused, he had to admit that for the moment he did not know where he was on January 10th, although he was certain he was not at Croydon. He was discreet enough to wait until the alibi was properly prepared. Something like fifteen witnesses were given to me to prove the alibi, and, after a very long sitting, the justices thought I need not go beyond nine, although in the absence of any answer to the Croydon cases they felt bound to commit the whole case to the

Old Bailey. It was the most remarkable alibi I have ever called. The witnesses were substantial people, whose manner satisfied me that, consciously at least, they were not trying to deceive the court. Their story was that from 2 till 4.45 the accused was at a whippet meeting miles away from Edgeware, and then came to London to wait the result of a fight at the National Sporting Club. The woman at Edgeware swore that the coin was passed to her at 4.15; she was vehemently positive that it was the accused who passed it, but there was no other evidence.

After the committal the man who was prepared to confess that he did it, wrote to the Home Secretary from the prison, where he was undergoing a sentence for passing off Jubilee sixpences as half-sovereigns, saying that he had heard of the accused's committal for trial for similar offences at Edgeware and Croydon, but that, in fact, he himself was the culprit. This was a fatal blunder. The police acted with exceptional smartness. Chief Inspector Hare, a shrewd and trustworthy officer, was sent at once to interview the convict in his prison. It soon became evident that he knew nothing about either the Croydon or the Edgeware cases. He was quite positive about the dates, which was easily accounted for. Apart from

the dates all his details were hopelessly irreconcilable with the proved facts. He knew neither the locality of the shops nor the people who served nor the goods purchased. He was wrong in the times and gave impossible railway routes by which he reached the different places. Still, the prosecution, seeing the strength of the alibi and discovering that the Croydon cases were outside the jurisdiction of the Central Criminal Court, worked up another case. A gilt jubilee sixpence had been passed to a woman at Holloway on December 10th. Suddenly without notice they took the accused from Brixton Prison to North London Police Court. There was of course a committal for trial. The police brought up the convict from his prison, as well as all the witnesses in all the cases. They paraded the convict with other men to see if any of the witnesses would recognize him as really the man who had swindled them. One and all they not only failed to pick him out, but when directly confronted with him asserted he was not the culprit. This was on a Thursday, and the Sessions began on the following Monday. An alibi was being prepared for the cases on January 10th at Croydon. The time was very short to provide an alibi for December 10th, the new date ; but it was done and with amazing success.

The trial began on a Tuesday and lasted till Thursday afternoon. The two counsel for the prosecution made a shocking bungle of the case ; they wrangled with one another, and were constantly the subject of comments and censures and rebukes from the Bench. What with the learned judge's remarks and my attacks the prosecution at the end of the first day became very demoralized ; the faces of the police-officers, who had done their work only too well, were an amusing study.

The learned judge insisted upon the convict being put in the dock for each witness to see. He told the jury very frankly that he thought the men were so far alike that, though easily distinguishable when side by side, a person casually seeing one for a few minutes might well after a month's interval mistake the other for him.

I admitted everything except the identity. Whoever the man was there was no doubt he knew the coins were not half-sovereigns. On this ground I objected successfully to the admission of the Croydon evidence to prove intent, which was not contested. My next step was to force the prosecution to put the convict into the witness-box, which would entitle me to cross-examine him. I knew he would sadly need help. The learned judge,

disgusted beyond patience with the conduct of the prosecution, in a moment of irritable excitement agreed with me "that the representatives of a great public department" ought not to keep back from the jury any witness who could throw light on the case. My unhappy opponents meekly agreed. Under careful guidance the convict told the whole story very well. It was nearly four o'clock when my opponent tried in a very feeble fashion to bring out his story to the police; but the effort was quite unintelligible, and the learned judge interposed, asking the jury if they thought it would be really safe to convict on the testimony before them. The jury, after talking to one another, said they would like to hear the alibi. The trial was thereupon adjourned; but next day came a great change. The learned judge had probably read the convict's statements to Inspector Hare, and when my opponent attempted to resume his questioning, he got a severe castigation for having wasted an hour the previous day in futile questions when he had materials for absolutely destructive cross-examination. With the obvious concurrence of the jury the learned judge said he did not believe a word of the convict's evidence. Things then looked black, and I felt I must make a serious effort to restore my position. Accordingly, instead of calling my alibis at once, I

addressed the jury at length upon the whole case as it stood—a step which as a rule I think very unwise—and at the close had the satisfaction of observing that both judge and jury were more favourably disposed. I completely cut away the damaging convict business, in which I had never had any faith. Then I introduced Alibi No. 1, relating to December 12th. The learned judge had the usual judicial scepticism of alibis, and, though my opponents made not the least impression on my witnesses, he at once knocked a little hole in the story which, happily, subsequent witnesses very cleverly patched up. Their story was that from 2.30 till four prisoner was at a whippet meeting making bets. “Had he a betting-book?” asked the judge. “Yes, he had,” said one witness, and he described it, in answer to further insidious questions. “No, he hadn’t,” said the next witness, similarly tested. “It was his clerk who entered the bets. He only had a sponge and a slate,” said a third. “He had slips of paper in a case,” said a fourth. Very quietly I had called several witnesses before the prisoner—these were the early days of prisoners giving evidence. Then the learned judge suddenly noticed what I was doing. I at once gave way and put the accused in the box. He declared he had a sponge and a slate. Subsequent witnesses did not deviate from the sponge

and the slate, but some explained that sometimes he used a book or even slips of paper in a case, and as to that particular day, they were not quite clear which he used. That difficulty was smoothed away. The witnesses were all respectable men. One who had a past I dropped out, because it was said he had broken his leg and could not come. Then came the new alibi, No. 3, for January, 10th. To my surprise and gratification it was even better than No. 1. It had a strong family likeness; it was another whippet meeting, but the witnesses were more imposing; they were not merely prosperous betting men but tradesmen in good business, owners and trainers of racing dogs, and independent amateurs of such sport; one was a licensed victualler obviously prosperous from a part of London quite remote from the accused's neighbourhood.

The case had now run into the third day, and the learned judge had gone quite round again to my side. I only addressed the jury for a short time. I saw the battle was won. After a very short consideration the jury returned a verdict of not guilty.

But there was a sequel, and a sad sequel, due entirely to the prisoner's astounding folly. He was a rash, hot-tempered fellow, without any discretion, and as I knew he would be at once rearrested for the Croydon cases, I caused a



caution to be given to him to say only, "I am innocent," if he said anything at all. Ten minutes later, when being taken, he turned to the officer and with some bad language said: "I have spoofed you and I have spoofed the judge; he was with me all along. How many cases are there altogether? I mean to have a go for it. You can't blame me, can you? I shall try an alibi again!"

He was taken to Croydon Petty Sessions and committed for trial to the Croydon Quarter Sessions, bail being refused. There was an appeal to the judge in Chambers, and Mr. Justice Bigham ordered bail; but his order was defeated by the police objecting to all the sureties tendered, and refusing even to agree to the payment of the requisite sum of £200 into court.

The Mint authorities instructed fresh counsel and, taught by the past, the prosecution refused to put the convict in the box. I should have dropped him if I had had my own way, but my clients insisted, and I felt it mattered little, as conviction was inevitable. All the contradictions in his statement to the inspector came out. He swore to the date of his visit to Croydon because it was the day his child died. The doctor and the death certificate showed that in fact his child died the day after the coins were passed. He swore he took

a ticket for Croydon at a station from which no trains ran to Croydon and from which no tickets were issued for Croydon.

And, worse still, the alibi this time was very poor, supported by very humble witnesses, and corroborated by very suspicious documents; but still, though the jury might have felt a strong suspicion of the prisoner's guilt, it was good enough to have won an acquittal had it not been for his insane braggadocio on his arrest. Even in spite of this outburst the jury took more than an hour to make up their minds to return a verdict of guilty. It was annoying, for it would have been a record to win on three alibis in practically the same case. Although the police gave the accused a very bad character, he escaped with twelve months imprisonment.

#### 4. A GOOD ALIBI

A lock-up post-office was broken open, and a heavy safe containing money and post-office property to the value of £600 carried off. It was a daring and carefully planned robbery, perpetrated at an hour when there were plenty of observers, and the property was never traced. One passer-by saw four men carry something heavy out of the office and place it on a coster's pony-barrow, but he could not recognize the men. A lad saw one of the party walk from an electric street lamp to the barrow. Two

detectives passing on a motor-bus, who knew that man as an old convict, saw him standing near the electric lamp. Next day, hearing of the robbery, they gave information which led to his arrest ; the lad promptly picked him out from a number of other men. His appearance was striking: very dark complexion, heavy, black moustache, and singularly rugged features ; he bore a striking resemblance to a well-known detective of the same division, and he actually asked that that officer should be placed in the row of men with whom he stood for identification ; it would have been a severe test. The identification by the lad and by the two detectives made a strong case. He declared he was innocent and could prove where he was at the time ; where that was he did not then specify.

Before the magistrate witnesses were called to prove his alibi ; it was rich in effective detail, and the witnesses had no past to damage their testimony. The accused's child died and was buried on the Monday after the robbery. The common incident of an alibi, a birthday, lacks the pathos of a death and a funeral. On the night of the robbery, Friday, several friends and relations were at the accused's lodgings to decide when the funeral should take place. At 7.50 the accused came home and then

went out to ascertain if his mourning suit was finished ; the tailor promising to deliver it on Saturday, prisoner paid for it, obtaining a dated receipt, which he produced. Soon after 8.15, when the accused got back, his brother-in-law and a friend arrived. The accused's wife had her sister with her all the evening to console her. About nine two friends came, who stayed with the party till 11.15. All swore that the accused was not out of their sight for more than a couple of minutes during the whole evening. The robbery was perpetrated at 10.30, a substantial distance from his lodgings. The witnesses, people of respectable appearance, gave their evidence very well ; cross-examination failed to damage it. The pathetic incident of the dead baby, an only child, impressed the judge as well as the jury. When I called the fourth witness the foreman said they did not want to hear any more and acquitted the prisoner.

### 5. A BAD ALIBI.

A van laden with £100 worth of provisions was left unattended by the driver ; when he returned he saw it being driven away at the end of the street. He spoke to a taxi-cab driver, who went in pursuit of it. When he got near a man jumped off, coming round the offside of the van facing the taxi-driver and getting close to him and then got on to a

light van driven by a woman. The taxi-driver continued the pursuit, but the man alighted and disappeared down a narrow street. The van was stopped and the woman taken. The woman was known to be the partner of a man who owned three provision-shops; she was wearing his photograph in a locket. This man was arrested and, when placed among others, instantly identified by the taxi-driver as the man he had pursued; but in cross-examination he declined to swear to him, although he said he was sure he was the man. It was a remarkable coincidence that the photograph of the man identified was found in the locket of the woman arrested on the spot; but she declared that the man who jumped on her van was a perfect stranger who asked for a lift. The man had not a good character; but even without the advantage of good character it was a good fighting case. My opponent called an alibi; it collapsed in characteristic fashion and secured his conviction. He was said to have been at the time at the other end of London. He swore he left his home with a man I will call A and A's wife, met in the street a man named Skittles, and all went to a public-house, had one drink in the bar with the publican, and then spent some hours downstairs in playing table skittles with him. In answer to me he said A's wife was with them in the bar while they

had the one drink, that then she left, the three men accompanying the publican into the skittle-room, where they had several drinks which they fetched in themselves. A, in cross-examination, denied that his wife was of the party at all. "I wouldn't allow her; the proper place for my wife," he said indignantly, "is at home with the children," and I sauely agreed; they met no man on the way and he did not know any one called Skittles. They had three drinks with the publican and were half an hour with him in the bar. In the skittle-room the drinks were fetched by the potman. "You don't bark," he said to me, eager to score a joke off me, "when you've got a dog!" They left because, it being Guy Fawkes' day, his wife came and said the children were back from school and wanted to see the fireworks he had bought for them. The publican agreed there was no woman of the party, he did not know Skittles and no third man was there. The drinks required he fetched himself because it was the potman's day off. When the wife came she wanted her husband to come home to tea and said nothing about fireworks or Guy Fawkes' day.

## 6. A BAD ALIBI SECURES A ROYAL PARDON.

The police found a warehouse had been broken into, and they surrounded it. Two men

were caught trying to escape ; one officer saw a third man walk across some leads, once or twice looking round, and then scramble over a wall from which he could get to the house where he lived. The officer knew him well, and swore he distinctly saw his face in the moonlight as he looked round. An hour or two later officers went direct to his house and found him in bed. Before they had time to speak he said, "I know nothing of the job." I advised that upon this evidence an acquittal was reasonably certain, but I was positively instructed to call an alibi. The trial went very satisfactorily ; but when I called witnesses who were to prove the accused was at home all the evening, and particularly at eleven o'clock, the time of the offence, the very first, recommended to me as the best, his daughter, at once stated that prisoner was out at eleven o'clock, and the others similarly blundered in their testimony. In addressing the jury I tried to remove the ill effects of this catastrophe and pointed out the weakness of the evidence of identity ; it was the evidence of the one officer who saw the man on the roof. I had accounted for the prisoner's remark on arrest by the fact that the surrounding of the premises had aroused the neighbourhood, so that every one knew what had occurred. The jury without hesitation convicted ; the accused declared he

was innocent, and the other two prisoners, after their sentence, said he was not with them at all. He was sent to penal servitude for five years. It was the alibi that convicted him. Not long after he received a Royal pardon.

### 7. A TRUE ALIBI THAT WAS DISBELIEVED

A carman in the employment of a firm of carriers drove a one-horse open van—the horse having a white face—to the 'tea warehouses in the Minories; the van contained eight chests of tea. Having left the van, the driver returned to find it gone. Shortly before, a trolly-driver suddenly found two men sitting at the tail of his trolly; they had jumped up as men sometimes do for a lift. The driver made no objection but asked for a match, and one of the men turned to give it him. Presently they both dropped off and a little later he saw them driving a one-horse van—the horse having a white face—laden with chests of tea. The driver, having discovered his loss, came running up, and the trolly-man told him what he had seen. Afterwards, when two men, brothers, were arrested, he identified one as the man who had given him the match; the other he not only failed to recognize but picked out another man arranged in the row to test his identification. In cross-examining the police I dis-



covered that the theft had been witnessed also by a van-boy, but as he had failed to identify either prisoner he had been dropped and even the fact of his having seen the robbery had not been disclosed. I pushed home my discovery ; while waiting in the Minories with his van, he saw two men approach the stolen van, call out the name of the carriers, and getting no answer, mount the van. The van-boy, who was at the next van, said the driver was inside ; they replied, " It is all right ; tell him it is a fresh order from the carriers." When the driver returned he informed him what had happened and where the van had gone. He told the police he should know the men again ; it was clear he had a good opportunity of observing them ; but he identified neither of the prisoners. There was another incident in the case ; a Polish Jewess, the landlady of a house not far from the Minories, was alarmed by something heavy knocking against the wall of the passage and shaking crockery off her dresser ; she ran out and saw a man taking a chest of tea into the room overhead, where there was a woman lodger getting her husband's dinner ready. The landlady demanded compensation for the damage ; the man brought in a second chest and said he would tell his governor. Not being satisfied, she sent for her son, who pursued the van and stopped it, the

man repeating his promise to tell his governor. The son identified one of the prisoners, not the one identified as having given the match, as this man, and his mother, though she failed to pick him out, afterwards swore to him. The police found the two chests of tea in the lodger's room, but could get no information from the woman. This was the case for the prosecution ; one witness with a slight opportunity identified one brother, and the other brother was identified in an unsatisfactory fashion by mother and son, who had a good opportunity of observing ; the van-boy, who had the best opportunity, recognized neither.

I had been provided with proofs of witnesses to an alibi for each prisoner. The alibi of one prisoner was that he was at home and I called his mother to prove it ; of the other that he was at work on a certain steamship in the docks. I called two respectable stevedores, who swore he was working with them. So far from having come to the court as friends of the prisoner and at his request, they had come of their own accord through meeting two detectives who, at the prisoner's desire, had interviewed the gang foreman. The gang foreman himself was not a witness ; his absence proved fatal to the alibi. Besides the prisoner I called the woman in whose room the two chests of

tea were found ; the woman swore neither brother was the man that brought in the tea. After considering some time, the jury asked why the gang foreman was not called and the judge, refusing to allow the prisoner to explain, told them it was an important point and they must draw their own conclusion. Thereupon they convicted. The gang foreman was not a witness because some years before, though not actually concerned, he had been mixed up with another van robbery and he did not care to face probable inquiry as to his share in that transaction. Both prisoners were sent to penal servitude. The same night two men gave themselves up as the real criminals. It is an incident that often occurs, but never with any advantage to the convict. They were duly remanded, and the officers who were in charge of the original case caused them to be paraded before the witnesses who had identified the convicts ; they not only failed to identify them as the real culprits but declared positively they were not the men. The men were consequently ignominiously discharged for the offence to which they had confessed. Soon after I had a visit from a detective inspector of Scotland Yard. He told me his inquiries had entirely verified the alibi at the docks. Both convicts were released by the Home Secretary.

## CHAPTER XV

### MR. COMMISSIONER KERR

It is difficult to describe this remarkable man. Only those who knew him and practised before him can adequately appreciate his unique characteristics. Possessed of very great ability and shrewdness, he could, if he chose, try a case with strength and dignity, but he preferred with sardonic humour to treat criminal trials as a grim joke. The grimness of the joke appeared, when there was a conviction, in the terrible sentences he was in the habit of passing. If he took any part whatever in the trial, it was to the detriment of the prosecution. He constantly disallowed the expenses of witnesses ; he never spared a prosecutor who wore a gold watch-chain to tempt thieves, or a shopkeeper who exposed his wares outside his shop. He never interfered with the defence, and counsel enjoyed the utmost possible latitude ; if he kept reasonably near the facts, his inferences and comments passed unchallenged and uncorrected. But of pro-

lixity he was absolutely intolerant. His own summing-up was usually in strong Scotch: "Gentlemen of the jury, you've hard the counsel for the prosecution, and you've hard the counsel for the defence. Consider your vardict." If counsel talked too long he would wriggle restlessly in the dark alcove in which he crouched. Then he would loudly rattle his keys on the desk. He would cut short counsel's opening speech by bidding the usher call the first witness. At a time when elaborate note-taking by the judge was the rule, he rarely took a single note. He never had such a thing as a notebook; a scrap of paper was all he ever used. One day, in the barely furnished little room that then served as robing-room for the three City judges, he came across the notebook of the Common Serjeant, Sir William Charley. The Commissioner studied his learned colleague's book. Sir William's writing was a wild scribble, and he took a note of everything. When the Commissioner came into his court he was full of a new freak. He would take notes like the Common Serjeant. Accordingly he filled sheets and sheets of paper with verbatim notes of the evidence, omitting nothing whatever, however trifling. The court officials were aghast. Instead of trying, or to speak more accurately,

disposing of some twenty or twenty-five cases in the one day he was required by his appointment to sit, he with difficulty finished two. This freak lasted several Sessions, but at length it got too irksome a joke for himself, and to every one's relief he relapsed into his customary speedy methods. His court was constructed after his own design. It was a small room with two doors nearly opposite two windows; in a dark recess in the wall between these windows was the Bench, usually illuminated by a single candle. If there were too many bystanders, he would have both doors and windows opened to drive them away by the draughts, in spite of the shivers of the jury, who sat close to one window. There were no seats except for counsel and solicitors. The front bench was for solicitors, the back one for the Bar, but as counsel used to get over from one bench to the other, exhibiting their legs, as he said, like ballet dancers, he had the front bench lowered and turned so that its occupants could not face the court. Then, as too many barristers squeezed into their bench and stopped there too long, he had the seat made narrower and farther from the desk to prevent lolling, and had arms put in too far apart for one man's use and not far enough to admit two. The dock was behind the Bar

bench, but so high up that prisoners' heads were not far from the ceiling. This singular court, not inappropriately called a kennel, had one advantage. Defending counsel was so close to the jury that by leaning forward he could touch the whole twelve. I used to enjoy the facility of seeing from their eyes how my arguments were working.

I obtained acquittals in that court quite impossible before any other judge, excepting perhaps Sir William Charley. I fear they were really scandals.

An old convict was caught at the Agricultural Hall with a gentleman's watch-chain between his fingers and the watch gone from it. I asked the prosecutor a pretty safe question. "Was not there a great crowd and much noise round you?" He agreed. I then asked him: "Didn't you hear the prisoner say, holding your chain in his fingers, 'Please, sir, your chain is hanging down'?" His reply I need scarcely say was "No." I urged upon the jury that it was the noise that prevented him from hearing this kindly observation, but seeing his chain in prisoner's fingers, he naturally jumped to the conclusion that it was he who had broken off the watch. The Commissioner said nothing, and the prisoner was acquitted.

Three men were indicted for highway robbery with violence. It was a bad case; the unfortunate prosecutor had been cruelly kicked, and the accused were in serious peril of the cat. The circumstances seemed most favourable to justice. At the moment the victim was thrown to the ground two detectives on special duty, from the frequency of similar outrages, heard his cry and saw the three prisoners and another man surrounding him. After a short chase they caught the prisoners. In the pocket of one was found the prosecutor's watch and chain. He was prudent enough to say that he found the watch and chain on the pavement, and picked it up in all innocence. I talked at large round this defence, and the jury, after the Commissioner's customary summing-up, acquitted all the prisoners. They expressed their surprise and delight in a way that obviously upset the twelve good men and true. The very next case was similar, except that there was only one prisoner, and he was undefended. In summing-up the Commissioner went so far as to say that the case was just like the last, but they had not the advantage of hearing "an eloquent speech from Mr. Purcell." But the jury had been once bitten; they startled the Commissioner by promptly convicting the luckless prisoner. When passing



sentence he told the prisoner he must act upon the verdict of the jury, and they had found him guilty, but whether he was more guilty than the previous prisoners he would not venture to say. Later in the day, in my absence, a prisoner was arraigned and the trial commenced, when he said he was defended by me. My clerk was sent for, and it was stated that I was not instructed. The Commissioner looked at the depositions and said, with delightful irony at my expense and at the expense of the jury, that there were matters which Mr. Purcell might make a good deal of, and in spite of the protest of the prosecution, directed the jury to be discharged, and with prisoner's ready consent, postponed the trial to the next Session. I have no note and now no recollection of the result.

A watchmaker was indicted for receiving £500 worth of jewellery, the proceeds of a burglary at a jeweller's shop; in another indictment he was charged with receiving a gold watch stolen from its owner's pocket at Hurst Park races. The jeweller's shop was broken into on July 23rd; on different days between July 28th and August 12th a woman pawned at different shops and in different names ten of the stolen watches. When arrested she explained that she had pawned

them for the prisoner. Thereupon detectives watched his house until he came out. They told him what the woman had said ; his reply was " Yes, it is all right." In his pocket was found the gold case of the watch stolen at Hurst Park about a fortnight before. In his shop the police found the works of that watch and the tickets of the woman's ten pledges. At the station, when asked if he could account for his possession of this property, he said " No, I've no explanation to give." No explanation had been offered before the magistrate. I had only to explain the summary procedure at police-courts to show how difficult it was for an uneducated, undefended man to state his defence, and why it was only through me, at the eleventh hour, he could explain that he bought the watches, quite honestly, in the course of his business, from a dealer in Hatton Garden. Having a sick wife who had died after seventeen weeks' illness, and an ailing daughter who needed country air (useful details which I had easily obtained from the woman who did the pawning for him, and was a witness for the prosecution), he had temporarily raised money on his purchases. The jury were significantly whispering and nodding together. I abruptly broke off, apologizing for giving them the trouble to

listen to me, if they had already made up their minds. The foreman said: "We don't want to hear any more. Not guilty." But a juror behind said: "I don't agree. I should like to hear from counsel why the prisoner did not explain before where he got the things." Then I laid myself out for that recalcitrant juror, reiterating the difficulties of an undefended prisoner, who, when asked to cross-examine, makes statements and is stopped; and when at the close of the case he is asked if he has anything to say, not knowing he must repeat what he stated when asked to cross-examine, and terrified by the solemn warning of the statutory caution, says nothing. "I am satisfied," said the juror, and the verdict of acquittal was taken. Mr. Commissioner Kerr, of course, did not sum-up.

My opponent then proposed to try the indictment for the Hurst Park watch. I said it was a waste of time, for it turned upon precisely the same question, but my friend insisted. The owner of the watch could not say the prisoner was the thief, or that he even saw him at Hurst Park. I repeated to the jury that it was the same question; this was another watch he had bought at the same time in Hatton Garden. Some of the jury startled me by showing signs of trouble. Instantly

I saw the blunder I had perpetrated. Prisoner could not have bought the two sets of property at the same time. While he was pawning some of the stolen jewellery on July 28th, the Hurst Park watch was safe in its owner's pocket on August 3rd. I faced the difficulty by frankly admitting I had made a blunder, and as the prisoner had tried to interrupt me and I had jumped upon him, I explained that my own impatience of interruption it was that prevented the correction from reaching me. The gap was covered, and in a few minutes the accused was again acquitted and discharged by the Commissioner.

These cases were of course tried in the days when the prisoner was not a competent witness, and when, very often, no one was more astonished at the defence set up for him by his counsel than the prisoner.

After one of these acquittals, coming out of the court with J. P. Grain, who had been chaffing me on the result, we met Round, the sagacious clerk of the Commissioners' Court.

"How is it, Round, he gets these acquittals?" said Grain.

"Oh, it is his humbugging ways," was the prompt reply.

It is a long time ago, but I have remembered the criticism because, though I am no

judge in my own case, it seemed to me very true. I have always believed in thoroughly acting up to my part to the very end. It used to be the practice of counsel defending to hurry out of court directly he had addressed the jury. It seemed to me to be giving away the show. One explanation, certainly at Clerkenwell, was the desire to annoy Edlin. The advocate, having denounced him, speedily left the court to avoid the scathing retorts of the judge and to deprive him of the satisfaction of gazing at his victim while he punished him. Mr. Edlin, indeed, used to betray his annoyance by sadly referring to counsel's disappearance. With some it was silly swagger to lead the jury to think they were urgently wanted elsewhere. But whatever the reason was it is a practice now quite discontinued. Counsel, in my view, should watch to the end with anxiety to show his belief in what he has been saying. There may also be opportunity for profitable interruption. A judge was once rather misstating the question at issue. I interrupted when he had finished with a condensed version of the issue. In a few minutes the jury returned a verdict in my very words. As some one said at the moment, it was my summing-up which caught the jury.

Round, to whom I have referred, was, I

think, the only official who had any influence with Commissioner Kerr. It would not surprise me to learn that he modified some of the learned judge's more extravagant sentences, or at least persuaded him to let him modify them. Certainly he was often deaf to some of the Commissioner's arbitrary orders, disallowing the costs of witnesses because they wore watch-chains, or exposed their wares outside their shops, or were in drink at the time of the offence, or gave their evidence stupidly, or did not answer the instant they were called.

The learned Commissioner delighted in smashing up long and complicated cases. He was never more alert and adroit than when searching for a pretext. He did not always succeed. Once J. P. Grain had opened and begun a heavy case in the absence of his leader. The Commissioner had made considerable progress in his destructive tactics when in walked the absent leader, Sir Hardinge Giffard. He deliberately untied his voluminous brief and planted himself squarely before the judge, but the unequal contest did not last long. That case was tried out.

Mr. Commissioner Kerr treated the City authorities with scant courtesy, though he repeatedly succeeded in getting them either to increase his salary or reduce his duties. He

received, in addition to his salary, often raised, as judge of the City of London Court, £300 a year for sitting one day a Session at the Central Criminal Court. Then, in order that he should devote his whole time to the City of London Court, he gave up the appointment at the Central Criminal Court, but retained the salary. During the long illness of the Recorder, Sir Charles Hall, he came back to the Central Criminal Court, sitting every day at the salary of a Commissioner of Assize, fifteen guineas a day, leaving a deputy to look after the City of London Court. Finally, after much haggling, he retired with a pension little if anything short of his full salary. He and Sir William Charley were the last judges elected in open contest by the votes of members of the Common Council.

## CHAPTER XVI

### RECEIVERS OF STOLEN PROPERTY

WHEN the accused became a competent witness, I thought the days of defending prisoners were over. I was wrong. It is true the days of defences invented for the benefit of the prisoner were over, but a new era dawned of plausible explanations, artlessly unfolded by the accused himself, with ample room for advocacy. There is one generally essential condition, that he should be a shrewd, intelligent man, yet there are occasions when obvious stupidity serves him nearly as well. In no class of case is the competency of the accused to give evidence so vitally important as in charges of receiving stolen property. To an innocent man it is his deliverance ; it is one of the very few charges in which I believe an innocent man was in real peril of wrongful conviction when he could not himself explain his transaction. Practically, an alleged receiver cannot avoid going into the witness-box ; though under no legal compulsion, he is morally compelled, for no jury would



accept an explanation which he did not give himself upon oath, subject to cross-examination. If he be not ready-witted and quick-tongued, the witness-box may prove a snare in which he is trapped. The defence of one man who went into the witness-box collapsed under the pressure of two or three pertinent questions that he could not satisfactorily answer from a juror in the trade who understood the qualities and prices of the commodity which the accused was charged with receiving. It constantly happens that the jury appreciates much more justly than judge or counsel the character of a business transaction. A man was charged with receiving a large quantity of valuable silk. The jury at once realized what both judge and counsel missed, that in its quality and quantity it was out of all proportion to the business the accused was carrying on, and only explicable because it must have been bought at a preposterous price. That jury perhaps was abnormally suspicious, because one juror had certainly undergone penal servitude, and two others, it was said, had been convicted.

### 1. THE ADVANTAGE OF INTELLIGENCE

A man was charged with receiving £500 worth of cigars. His shop was visited by the

police, who asked to see his stock. He showed them about 1,000 cigars, saying that was all he had, and named the auctions where he had bought them. His wife—it being after midnight—asked if she might go to bed as the police intended waiting till the owner could be fetched to see if he could identify the cigars. She was allowed to go upstairs, but a detective-sergeant, Handley, not an easy witness to hoodwink and recently awarded the King's medal for detective skill, said he should first of all search the bedroom. The wife with injudicious haste seated herself on a chair in front of a cupboard. In it the officer found four boxes of cigars. The wife explained that her husband had bought them a fortnight before, and as there was no room below she brought them up unknown to him. Downstairs the inspector, Wensley, was privately told of this discovery, and this explanation. When asked for his explanation the husband said he had brought them some months ago from his former shop. These cigars were identified as part of the stolen property, stolen within a month. The accused's explanation in the witness-box was complete, plausible, and successful. He was a keenly intelligent man when not taken by surprise. At an auction about a fortnight before, as his wife had said,

he found cigars going dear, and a man whom he often saw at sales but whose name he did not know said, "You will get nothing here to-day, but if you want any cheap cigars I have some." A specimen was produced and six hundred were bought. In the dark, when the police showed him the boxes found in the cupboard, he had mistaken them for some he had brought from his former shop. The jury acquitted him, but censured him for buying so carelessly.

## 2. THE SALVATION OF STUPIDITY

A man in business as a boxmaker was said by two lads, often convicted of larcenies and having the appearance of incorrigible young thieves, to have bought from them for very small sums boxmaking materials which they had stolen from trucks left unattended. The price he paid depended solely upon their uncorroborated testimony. In the witness-box he could not give any better price, and admitted their accuracy, although with this qualification, that he had no precise recollection what he had paid. He said they told him they were job lots or purchases from a marine-store dealer. The two lads had so conspicuously the stamp of thieves in their unwashed, unkempt condition that I asked the defendant if

they had the same appearance when they posed as job-dealers. Any one of ordinary intelligence would have said they looked then much more respectable. His reply was they looked just the same. All the stolen property, some five truck-loads, was found practically in the condition it was stolen ; the original wrappers with the consigner's handwriting had been left untouched. The goods had neither been sold nor even promptly used up in his work. The accused looked a drink-sodden, stupid man, and gave his evidence quite in that character. The jury accepted my suggestion that no man of intelligence would have admitted paying absurdly inadequate prices or would ever buy such property at such prices from such lads, but might not such a stupid man as the accused buy it quite innocently from sheer folly and stupidity, keeping it all untouched on his premises? The accused's stupidity was his salvation. But it is a perilous defence ; usually men charged with receiving stolen property are endowed with very keen intelligence ; it is not a fool's business.

## CHAPTER XVII

### SIR RALPH LITTLER

SIR RALPH LITTLER, the first Chairman of the Quarter Sessions for the newly created Administrative County of Middlesex, was unique in his methods of administering justice and in his principles of punishment. As his office was unpaid—he once vainly endeavoured to induce the County Council, of which he was also Chairman, to vote him a salary—he fixed the sittings of the court for a day, Saturday, when his engagements as a leader of the parliamentary Bar left him free, and he sat as late as eleven o'clock to finish the work in the one day, helped largely by his first deputy, Mr. Loveland, whose industry in trying prisoners was ever untiring. But it was not a satisfactory method of administering justice. No one could be more kind or considerate to his "brethren at the Bar," as he was fond of describing them; but no one could be more arbitrary to the unfortunate people he tried. His legal decisions were sometimes reckless.

He once told a jury they must convict a railway guard of felony, who was seen drinking milk from a churn at a platform if they believed the witnesses, as that was the only question for them to consider. With difficulty he was afterwards induced to reserve the point for the Court of Crown Cases Reserved. They said it was unarguable; it should have been left to the jury to determine if the taking was felonious. In a case of mine he ruled that the mere finding of stolen lead in a marine-store dealer's yard was not merely evidence but proof of his possession, casting upon him, as it was then held, the burden of proving it was innocently received. I protested, and several times interrupted his summing-up, provoking him to say he would "report" me. The jury were independent and acquitted. Two members of that jury some years later were again summoned. While waiting for the court to resume after lunch they came up to me and reminded me of the lead case. They had been waiting all the morning, and complained that it was very tedious. I offered to get them put to work. I asked the officer of the court to call them into the box, but there was already a jury empannelled. I was defending in the next case, and, exercising my right of challenge, I made two vacancies, into which the two jurors were

called. I was defending two respectable bricklayers, charged with fowl-stealing. A cottager's poultry yard had been broken into and his Christmas collection stolen. The dead birds were found some distance off in a sack. The spot was watched by the police, and one of the prisoners came to the hiding-place. In his pocket was a stolen fowl. At the workmen's shed, where the men were working, was the other prisoner's jacket, and in a pocket was another stolen fowl. Neither made any reply to the charge of stealing. My defence was that having accidentally found the thieves' hiding-place, each had helped himself to a fowl in the belief, not uncommon, that findings were keepings. After a protracted deliberation the jury said they could not agree. Mr. Loveland told them to retire. After some two hours' deliberation they came back. One of my acquaintances—they were both apparently men of education and superior position—who had captured the post of foreman, read from a paper this special verdict, "We find they were in unlawful possession of the fowls." I claimed that as an acquittal, but Mr. Loveland asked:—

"Do you find they knew they were stolen?"

"No, we don't," was the foreman's reply.

That was a verdict of not guilty. My two

admiring acquaintances had done it. How far the rest of the jury, who seemed on a much humbler social level, appreciated the verdict is doubtful. The two jurors had evidently from an irresponsible sense of sport talked them round. Mr. Loveland was told how I had packed the jury.

A young married woman of education and good position was charged with stealing from railway waiting-rooms mirrors, rugs, mats, and fenders. They were all found in use in her house. She was seen taking a large mirror out of a station where she was known and engaging a cab to take it home. Directly it was missed an officer went to her house and found it in the garden. The jury could not believe such a good-looking, well-dressed girl, only recently married and enjoying the highest reputation, could be guilty of stealing. Sir Ralph Littler was furious. He directed the other indictments to be tried next Session. He called Muir, who was prosecuting, and me into his room, and told Muir if I again referred to the girl's character he was to give in evidence all the other cases. Not finding Muir amenable to dictation, he himself brought out the fact of the finding of all the articles at her house. Then the jury found her guilty, not on the charge of receiving, on which alone such



evidence would have been admissible, but on the charge of stealing. Sir Ralph sent her to prison for four months. She was an extraordinary girl. From the first she seemed quite unconscious of her position, and when she came with her solicitor to conference her dress and her manner were consistent only with a visit to arrange a trip to see the Boat Race, which took place on the day of her trial. Her explanation, given quite seriously, was that she met a strange man in the street, and he offered her a mirror for half a crown. She agreed to buy it without seeing it. He told her he would bring it to a railway-station, the one from which it was stolen. Seeing a large mirror, loosely wrapped in paper, she thought it had been left there for her. She was not, then, a competent witness. Whether her good looks and artless demeanour could have bewitched the jury into believing her story I know not, though I have seen very similar achievements. But certainly hers was a case, not for prison but for medical observation and treatment; it was certainly not a case for Sir Ralph Littler.

Sir Ralph's summing-up had none of the elaboration of Sir Peter's; they were practically plain directions to return a verdict of guilty, and were often unsuccessful with juries who would not tolerate dictation.

There were classes of cases in which Sir Ralph almost invariably, and usually with success, devoted his efforts to smashing the case for the prosecution. I was once defending a wife and her adulterer charged with stealing the husband's jewellery ; it is a charge in which the view of the jury is not always the view of a lawyer. I found the Chairman had given the Grand Jury no directions about it. He told me he had overlooked it, and as the bill was almost immediately coming before the Grand Jury he asked me to send my clerk to his clerk, who was the usher of the Grand Jury, and tell him to bring the jury into court at once. Then, in the presence of a learned friend who now illumines the Metropolitan Bench,<sup>1</sup> who was prosecuting for the wronged husband, and to his speechless indignation, for he could not interfere, Sir Ralph told them in his customary, direct, and forcible way to throw out the bill. They obeyed his direction.

It was to the burglar and to the receiver of the plunder that he gave little justice in the trial and no mercy in the sentence. A

<sup>1</sup> An apt quotation he once made deserves recording. He was appearing for a baker who had been previously convicted and whose coat was covered with flour. "My lord," he said, "I cannot say my client bears the white flower of a blameless life !"

feeble, worn-out old man who pleaded guilty to receiving stolen property had given the police the names of the two thieves. Sir Ralph sentenced the thieves to ten years' penal servitude, and one, turning to the old man, felled him to the ground with a tremendous blow in the face. Sir Ralph felt compassion for him and also desired to reward his treachery. He sent him to penal servitude for eight years. He passed me a note saying he was sorry he could not do more, or rather less, for my prisoner. For him eight years' penal servitude was the maximum of leniency. The old man lived to serve only two years of his sentence.

In his early days, when sitting as deputy for Mr. Edlin, he sentenced two men to eighteen months' imprisonment for an assault on a policeman and to five years' penal servitude for a simultaneous assault on an actor going home late at night. I pointed out that that involved, according to the then rule, that the first nine months of penal servitude was imprisonment, a term exceeding the legal limit of two years' imprisonment. In the pleasantest and most affable way he said he would alter his sentence. The prisoners should have the penal servitude first and the imprisonment afterwards. It was their first conviction. The Home Office reduced both sentences to one term

of twelve months ; it had really been only a drunken brawl.

But although Sir Ralph's sentences were pitiless, he took great pains to assist the dependents of the men he sentenced, and to provide funds for that purpose he established among the justices a fund called the Victoria Fund.

When the administrative County of London was carved chiefly out of the County of Middlesex the new administrative County of Middlesex claimed the ancient records and the official symbols. A highly entertaining correspondence ensued between the two counties. Sir Richard Nicholson, as Clerk of the Peace for Middlesex, wrote from the Guildhall, Westminster, argumentative and indignant letters to Sir Richard Nicholson, Clerk of the Peace for London at Clerkenwell, and he wrote appropriate replies from Clerkenwell to himself at Westminster, though an inquirer would probably have failed to find him personally at either address. At length the matter came before the High Court and the decision was in favour of Middlesex. Thereupon the ancient records were disinterred from their resting place at Clerkenwell and transferred to the Guildhall at Westminster, where they remained during the rebuilding bricked up in the vaults. Besides the bound calendars, which I have found

very interesting reading, they included indictments and depositions measurable probably by the ton and from which I doubt if any one has ever shaken the dust. They were not missed from Clerkenwell like the ancient symbols. The daily opening of the court lost a display that used irreverently to be called the "Punch and Judy show." Before Mr. Edlin appeared at the Bench door the gaunt usher, officially styled the Beadle, but popularly known as "the bus-horse," whom I have described elsewhere, wearing a panelled velvet gown thrust into the doorway the silver-crowned Mace—a weapon some six feet long—and his own remarkable head, adorned with a big cocked hat worn with the points sideways, and cried "Silence!" As he withdrew there appeared the bent, diminutive figure and shrivelled face of the Assistant judge.

The Mace now precedes the Chairman of the Middlesex Sessions as he marches to his court, and remains deposited on hooks at the side of the canopy over his seat. But the cocked hat and the panelled velvet gown appear no more. It may be that none of the officials of the court possesses a face of sufficient austerity to support with appropriate dignity the venerable hat.

The position of the Clerk of the Peace reflected great credit on his capacity for pro-

tecting his own interests. For a great many years, though paid a salary of £3,000 a year, he never appeared in court at all. I am one of the very few who, in bygone times, saw him once or twice at the desk in his robes. His duties were discharged by a succession of deputies, but the shortcomings of some have been amply atoned for in the selection of the Deputy, Mr. John Dix, who at last, with universal approval, became Clerk of the Peace for London on the appointment of the Standing Joint Committee. When the counties were severed, Sir Richard Nicholson retained his position and salary as Clerk of the Peace for Middlesex and became Clerk of the Peace for London north of the Thames, just as Sir Richard Wyatt retained his position of Clerk of the Peace for Surrey, adding to it the Clerkship of the Peace for London south of the Thames. I believe their salaries were proportionately increased, and the survivor—it happened to be Sir Richard Nicholson—was to succeed to the Clerkship for the entire County of London and to the whole salary. Sir Richard Wyatt was as careful to protect his interests as Sir Richard Nicholson, but he had this distinction, that though he had a deputy he appeared in court himself in robes during the morning, but only to occupy an easy, capacious chair so com-

pletely screened from the court that he could at pleasure enjoy a nap or a chat with a friend without being observed. His deputy's head was just visible when he stood up to arraign a prisoner. That screen disappeared, but the capacious chair remained occupied, however, by tin boxes to keep off gossiping idlers.

Sir Peter Edlin had no opportunity of crossing swords with Sir Richard Nicholson, though when anything went wrong he would say "Send for Sir Richard Nicholson," or with more practical effect at a time when he could not tolerate the deputy clerk and encouraged a smart youth to sit at the table, "Send for Sir Richard Nicholson's coachman's son," which, in fact, he was. Sir Richard Wyatt was too fleshy and ponderous a man to be moved by Sir Peter's jibes, and he usually treated him as an eccentric person to be amiably humoured. I never had any trouble with Sir Richard Wyatt and often chatted with him when reposing in his capacious chair. He had a quaint humour. I sat next him at a mess dinner when he stared at me with melancholy interest while I was eating oysters, at a time when many thought them fatal to the consumer, and he genially congratulated me on my daring.

## CHAPTER XVIII

### SOME POLICE-COURT EXPERIENCES

IN my early days I was very frequently briefed at police-courts to induce magistrates to deal summarily with offenders anxious to avoid the Sessions, if I could not get them discharged altogether. There were at that time two priceless legal decisions upon which I often rode to victory. One was that a man could not be convicted of attempting to pick pockets unless there was evidence that there was something in the pocket to pick. The other was that to be found once at a place was not "frequenting" within the meaning of the Vagrant Act. Years later the Court of Crown Cases Reserved contemptuously overruled the first point, and the second was destroyed by a special section of an Act of Parliament. The summary settlement of a case in which a conviction was inevitable depended upon the temperament and disposition of the learned magistrate. The Summary Jurisdiction Act of 1879 positively prohibited summary settlement where the accused had already been



convicted on indictment, but this unwise provision was often ignored, and in 1914 it was directly repealed. Success was pretty certain before Mr. Flowers or Mr. Mansfield. Mr. Flowers was the gentlest, kindest-hearted magistrate who ever sat on the Bench. He had none of the prevailing faith in the necessity or in the efficacy of imprisonment; he constantly released young offenders long before the First Offenders Act and handed them over to the care of a man who in the course of a long career has done incalculable public service, Mr. W. Wheatley, of the St. Giles' Christian Mission. Mr. Mansfield was, I think, the last of the old school of magistrates who were wont to come on the Bench wearing their hats, and he always referred to counsel in a case as "my learned friend." There were magistrates before whom it was not such a pleasure to appear, Mr. Newton was at one time Mr. Mansfield's colleague at Marlborough Street. He required to be carefully studied. He snapped and snarled at every one on the least provocation, and the doorkeepers were often ordered to lock the doors to prevent a noise on any one entering. Discharges or summary settlements were rare with him. His temper of course varied, but he had the signal merit of sparing no one. I think both the

eventual Home Secretary, Henry Matthews, when Q.C., and the present Prime Minister, also when Q.C., had a taste of his quality. Personally we had occasional "breezes," but I scored because I never lost my temper and only made smiling replies to his outbursts. We were, indeed, on excellent terms, and he never let me pass his desk to reach the magistrate's door (which by the courtesy of the period counsel were allowed to use) without stopping me to shake hands and say something kindly cynical. Once we had had a bad time, and I thought I would not use the magistrate's entrance, and was moving towards the public door, when he stopped me and motioned me to the Bench door. As I passed him he quietly said he hoped I would behave better the next time I came. Some writer, I never knew who he was, wrote a series of smart articles in the *Pall Mall Gazette*, "Mornings at the Police-court." Once it was when I was before Mr. Newton. I reproduce it because it is a characteristic description of his magisterial style.

"Edward —, your worship!"

Mr. Purcell, white of hair and black of beard, in the pew marked COUNSEL, appears for the prisoner. Edward —, pale young man, well dressed, leans against the back rail of the dock, and his case is taken

up at the point where the last hearing left it. It appears to be a matter of fraudulently obtaining a valuable ring. Fawn-coated young detective in charge of the case is by Mr. Purcell handed a letter.

"Now," asks Mr. Purcell, "did you see that letter yesterday?"

"I did."

"And was it shown you by prisoner's solicitors?"

"It was."

"Perhaps," suggests the chief clerk—"perhaps Mr. Purcell will read the letter?"

"With pleasure. It is as follows:—

" 'WILLESDEN.

" 'The gentleman who is detained in the matter of the ring is innocent. Mr. — did not do it. You will find the ring at Attenborough's in Chancery Lane.

" 'Yours truly,

" '(Signed) THE ONE WHO DID IT.' "

Now then, Detective Storey, did you, in consequence of that letter, go to Attenborough's and find the ring?"

"I did, sir."

"You found the ring there?"

"I did."

"Very well, you found the ring there."

"Alfred Alexander Goff, sir!"

Mr. Goff, smart, quick, and definite, is manager to him who, as the young literary Parisians say of Francisque Sarcey, is *l'oncle de tous*.

"I, Mr. Goff, produce a 'alf-'oop brilliant ring. It was pledged with us on the 28th of November, at four o'clock, for twenty pounds."

"By whom?"

"By the prisoner."

"You identify him?"

"I saw him, your worship, this morning with a dozen other men called in from outside the court, and I picked him out at once."

Mr. Purcell hurries round to the dock to consult prisoner, and returns primed for cross-examination.

"Now then, Mr.—Mr. Goff, you say you identified the prisoner?"

"I do."

"Have you ever seen prisoner before?"

"Why," exclaims Mr. Newton, tapping with his pencil, "he *said* that the prisoner pledged the ring?"

Mr. Purcell would nevertheless like, your worship, to put the question.

"Have you, Mr. Goff, ever seen the prisoner before?"

"I have seen him," makes answer Mr. Goff, with deliberation—"I have seen him in the *dock* before!"

"There, Mr. Purcell" (Mr. Newton as he speaks smiles)—"there! You've brought that upon yourself. It *just* shows the fatal results of certain experiments in cross-examination. I have been here a long time, and that is the result of *my* forty years' experience."

Mr. Purcell calmly goes on.

"Was it getting dusk when the ring was pledged?"

"It was."

"That's all."

Mr. Purcell proposes to call witnesses to prove alibi. Joséphine Rappillard. Young Miss Rappillard is French, but speaks English; and the interpreter, disgusted with a state of things where mere witnesses speak languages that are other than their own, folds up his *Gil Blas Illustré* and bustles out. Young Miss Rappillard helps her mother, who lets lodgings just off Woburn Place. Mr. — had the second floor front. On the day in question he was very ill, and about four or five she was rung for.

By him: "Can't say the time any nearer."

"Now, look here." Mr. Newton intervenes with an odd and sudden explosion of wrath. "Don't be a silly, foolish girl, but answer the questions. Don't be stupid. Do you hear?"

Mr. Purcell blandly protests.

"Must beg of you not to frighten my witness, sir. She is giving her evidence very well."

"*I think*," persists Mr. Newton, flushing, "she is very foolish and idiotic."

"You may *think* that," remarks Mr. Purcell genially; "but you should not say it."

"I *shall* say it, sir," declares Mr. Newton hotly; "and that is a very improper remark for you to make," and taps with the pencil his desk.

There are two or three other witnesses, all in the direction of the elder Weller's favourite policy. It avails nothing. A slightly rakish-looking youth in a shabby brown overcoat proffers the information that he is Detective Mellars of the E Division, and at the North London Sessions in July, '92, he saw the prisoner "sentenced to fifteen months 'ard labour ('aving been previously convicted) for a £70 affair of jewellery. Mr. —, like the rest of us, seems to have had his hobbies."

"That is the case, your worship."

"Well now, prisoner, listen to me. You have heard the evidence given against you. Have you anything to say?"

"He reserves," says Mr. Purcell—"he reserves his defence."

"Then you are committed to take your trial at the next sitting of the Sessions of the County of London."

Mr. Purcell takes up his hat and papers. He steps round to Mr. Newton, and the old magistrate, still for a moment severe, relaxes presently into a good-tempered smile. 200 C closes his book and looks round.

"Business of the court's over, gentlemen."

There were two magistrates, colleagues at the same court, then called Hammersmith, who used to commit for trial many more cases than came from any other court—Mr. Paget and Mr. Shiel. Some of their committals were ignored by the Grand Jury, and Sir Peter Edlin as a rule thought them only fit for trial in the second court. I have known a witness taken from the witness-box and committed for trial for receiving without any evidence except her own inadmissible deposition. Mr. Paget was a red-faced, choleric person, with whom I found reasoning impossible. Once Grain and I asked him to dispose of a case which we had arranged. He yelled at us, told Grain to sit down, and when Grain persisted, he jumped from his chair and ran down the staircase which then led off the Bench. Mr. Shiel, though severe, arbitrary, and quick to get angry, never lost his self-control. It was Mr. Shiel, I think, who first put into operation the seventh section of the Prevention of Crimes Act, 1871, which enables a magistrate to send an old convict to twelve months' imprisonment if he is shown to be about to commit a crime. It must have been six or seven years after it was passed. A prisoner whom I defended came within the section. There was not enough evidence to send him for trial, and

I urged Mr. Shiel to deal with him under the Vagrant Act and give him three months ; but having discovered this method of giving him twelve months, he ordered another remand, directing the police to charge him under the statute, and then sent him to prison for twelve months. Not long after a Home Office circular was sent out drawing attention to the section. Since that time many hundreds of prisoners have suffered the maximum sentence. By the Summary Jurisdiction Act of 1879 they acquired a right to be tried by a jury. Some venturesome men claimed this right, but Sir Peter Edlin quickly checked this inclination by directing another count to be added to the indictment, which enabled him to give them eighteen months instead of twelve. In later years many judges have doubted the wisdom of the seventh section, and in some cases have assisted accused who elected to go for trial to an acquittal.

When Mr. Shiel was at Westminster I was instructed to ask him to deal summarily with a well-educated and daring American burglar, who had been caught one night in Lord Iveagh's house with his pockets stuffed with valuable artistic treasures. He had already undergone six months for being found by night in Park Lane with powerful housebreaking implements.

I had too much respect for Mr. Shiel's acute common sense to talk nonsense to him—which he would have resented in forcible language—I only hinted in an indifferent sort of way that prisoner would really not object to have his case settled by a magistrate of Mr. Shiel's experience. Mr. Shiel politely declined the delicate invitation and sent prisoner to the Old Bailey. Then I became useful; it was July, and there would be no Session at the Old Bailey till September. I suggested a speedier trial at the London Sessions. Mr. Shiel said it was a very simple case and consented. The case came before Mr. McConnell, who was so much impressed by the accused's youth and early training, and by the anxiety of his family in America to give him a fresh start, that he sent him to twelve months' imprisonment instead of the three years' penal servitude which he expected, and which at the Old Bailey he would have got.

Sir James Vaughan was not an easy magistrate to persuade. I succeeded with him once. One night a man got into a house in Bedford Square, but on entering a bedroom in search of spoil he alarmed the occupants and had to take to flight. A constable saw him dart out of the house, and hearing the cry of "Stop thief!" chased and caught him. Although an adept in crime, he had never been



convicted of felony. Sir James said he must go for trial, which was not what the prisoner wanted. I pointed out that there had been no larceny; that there was no evidence that the street door had not been accidentally left ajar; that there was neither breaking in nor breaking out; that nothing of a burglarious nature was found on the prisoner; and finally urged that there was every probability of his getting acquitted by a jury. Sir James said he had no doubt prisoner was the man who entered the house. Then I urged he had better deal with him while he had him in his power, in the interest of public justice, as the prisoner was content to be dealt with summarily as a rogue and vagabond. It was a question of three months now or an acquittal at the Sessions. Sir James was caught by my argument and yielded. He told the prisoner he had been very prudently defended, and sent him away rejoicing to three months' imprisonment. Some time later I tried the same arguments, but Sir James was obdurate and said in his dryest tones: "I do not concern myself with how the jury will discharge their duty, but I will do my duty and send the prisoner for trial."

A pretty girl, looking even younger than she really was, appeared before Sir John Bridge on a charge of street robbery.

She had been charged once before, but was not recognized. I prevailed on the kind-hearted magistrate to give her an opportunity of leading a better life, and the experienced and respected missionary agreed to look after her. Directly she got a little way from the court two men set upon the missionary, assaulted him, and rescued the girl. Both men were well known, and soon I had to defend them. Unluckily it was Sir John Bridge before whom they came. I could do nothing, and they went to prison for two months. It was well deserved, for their violence to the benevolent missionary was quite gratuitous. If the girl was bent on her evil ways, as the sequel proved, she had only to walk away from the Home. Many years later I was taken to Bow Street to defend three women who had been repeatedly convicted, and were consequently charged under the Prevention of Crimes Act. One of them was this irreclaimable girl. The missionary was there, and reminded me of the chance she had thrown away. Though I failed to get Mr. Marsham to deal with her under the Vagrant Act, he was not unreasonably obdurate, and mitigated the sentence under the Act to nine months.

The Old Marlborough Street Police Court was the scene of an incident quite exceptional in police-court records. Eighty-five men found

in the Frascati Club were brought before Mr. De Rutzen to be dealt with according to law. Such persons were usually bound over in their own recognizances, in £20, under a statute of Henry VIII, "never more to haunt gaming-houses." Scores of men anxious to get out of trouble as expeditiously as possible readily consented to be bound over. But the frequency of police raids on gaming-houses, and the arrest of many men already bound over, and consequently liable to the forfeiture of their recognizances, made the obligation a real and substantial one. No one had ever questioned the applicability of the ancient statute, expressly passed to encourage archery for the national defence, and to discourage the pursuit of tennis, quoits, and such frivolous games. I was instructed to defend the whole eighty-five men, of whom many had already been bound over. I carefully studied the statute and its amending statutes. It only enabled the court, if it enabled the court to do anything, to bind over persons "haunting, resorting, and playing" at gaming-houses. There was not a particle of evidence that any one of the eighty-five men had ever been at the Frascati Club before, or as to how long any had been there on the day of the raid, which occurred at half-past three in the afternoon, or even as to what they were doing there

at the time. Originally, justices themselves were required periodically to visit gaming-houses and arrest persons whom they repeatedly saw "haunting, resorting, and playing," and bind them over not to do so any more. The mere finding of a man in a gaming-house did not make him liable to be bound over. I startled Mr. De Rutzen by objecting to his following the usual course of binding the men over. He took time to consider my contention, but in the end said he would follow the uniform practice of his colleagues, offering to grant me a case for the Queen's Bench. Now arose a difficulty: How was it to be ascertained if all the eighty-five wished to carry the objection to the High Court and render themselves liable to the costs? Many were foreigners, and to admit all even inside the court the public had been turned out; packed closely, several deep, they filled the entire body of the court. My client could not without specific instructions speak for them all. After some discussion, Albert, the interpreter, addressed the mob of defendants in German, in Italian, and in French, telling them if they wished to appeal they were to remain in court; if they preferred to be bound over they were to go out into the yard. Thereupon thirty-four walked into the yard, leaving fifty-one, all Englishmen, who wished to continue

the fight. Then the magistrate thought I had better consult with them and let them know and understand the conditions and consequences of appealing. He asked me if I would mind going out into the yard ; I suggested, as he was on the point of adjourning, that he should leave the court to me, my client, and the fifty-one fighting defendants. He cordially assented and left. Then, standing at counsel's seat, I addressed the body of the court, where the fifty-one still made a formidable show. The two jailers and the reporters were the only strangers present. As my speech was necessarily somewhat free-and-easy I asked the reporters to respect the privacy of this singular conference. My audience was earnest and appreciative ; I suggested they should select ten representatives to consult with the solicitor and myself ; some said five would be enough, and they soon put forward five spokesmen. All were staunch in their desire to try the question out, for they were all betting men, constantly in clubs and betting-houses as a matter of business, and now in daily danger of police raids. If the statute of Henry VIII did not apply, there was no practicable means of reaching them at all. The appeal unluckily happened to come on before two great equity judges, Lord Lindley, the Master of the Rolls, and Lord Justice Chitty ; there could not have

been a more inappropriate tribunal for such a question. The fact that I was trying to destroy the only practicable method of harassing the frequenters of gaming- and betting-houses was a serious burden; the court was naturally anxious to discover a reason for upholding the magistrate's decision. After hearing me and Dankwertz, who was for the police, the court adjourned. Next day they gave judgment; they held the magistrate's order was good. They ignored altogether the actual words of the statute of Henry VIII, on the ground that as the Betting House Act says men "found" in a betting-house may be arrested on the form of warrant given in the schedule of the Gaming House Act, and as that warrant sets out the very words of the Act of Henry VIII, therefore the Legislature intended that the penalty for being "found" in a betting-house, which is not elsewhere provided, must be the same penalty as the statute of Henry VIII had provided for "haunting, resorting, and playing" in a gaming-house, because it was inconceivable that the Legislature should authorize an arrest not to be followed by a penalty! This pretty reasoning was the achievement of the judges, for Dankwertz suggested nothing of the kind. Thus fresh life was poured into the statute of Henry VIII as a weapon against gamesters.

## CHAPTER XIX

### SOME EXPRESSIONS OF GRATITUDE

I ONCE defended a lady who had no less than three living husbands. She was tried on two charges of bigamy before Sir William Charley, and though prosecuted by Montagu Williams with exceptional vigour and venom, I secured her acquittal. Her third husband was afterwards indicted for libelling his own father, who had instituted the prosecution for bigamy in order if possible to emancipate his son from the fair charmer. In this case I was also instructed, and with the help of Mr. Commissioner Kerr, on the strength of facts that had nothing to do with the merits of the charge, saved him from conviction. The lady was deeply grateful. She was a remarkable woman. She was stone deaf, very lame, and not in her first youth. It was said that she had recovered substantial damages from a railway company for an injury to her leg in an accident to a train in which she was not travelling. What gives probability to this story was the

subsequent fate of her solicitor. He was convicted of conspiring to bring actions for damages for injuries in street accidents that never occurred; he used to assemble his witnesses, drill them in the necessary evidence, and tutor them in dramatic ejaculations at the imminence of the imaginary accident. The grateful lady presented me with a huge glass covered vase of artificial flowers of her own manufacture. It was an incongruous ornament to a barrister's chambers, but that was the worst that could be said about it. Once, soon after I was called, I succeeded in getting a Billingsgate fish porter accused of stealing fish discharged by the worthy alderman at the Guildhall. Two mornings later I found at my chambers a fish-basket containing a salmon. Its provenance was at least suspicious, and I passed it on to the youth who was then my clerk, who was able to stifle any qualms of conscience.

The parents of a young man whom I had saved from conviction for an assault insisted on my accepting a gold pencil case which is still attached to my watch-chain, though a watch which was for many years attached to the other end has gone. I was defending in a case that lasted several days, and finally the solicitor wrote that he could pay no more refreshers, but a relative of the accused had a watch and if



I cared to accept it in lieu of further refreshers it should be brought to me. As I assumed it could not be of much value, or the solicitor would have converted it into cash for his own benefit and mine, I agreed to accept it. It turned out to be a gold watch of American make, worth about thirty guineas, and for the many years I wore it a capital timekeeper. It had one narrow escape before it was finally taken from me. One Lord Mayor's Day, the year of Sir J. Stuart Knill, returning from the Sessions, I was stopped at the end of Fetter Lane by the passing of the procession. A group of men surrounded me with forms to stand on to see the show. They got inconveniently close to me and in another moment they could have thrown me over the form and had me in the crowd at their mercy, when one looked up and cried out, "Hold hard, he's a pal!" His face was quite familiar to me. I had not time to notice the others, for they quickly scattered. Presently a man whom I have known for years came up and smilingly remarked, "You are very lucky, Mr. Purcell." My luck lasted for a good many years, till one Saturday morning, on entering a Tube train at Oxford Circus on my way to the Central Criminal Court, I was obstructed by a very fat man in the gateway whose legs, from his diffi-

culty in walking, seemed to be very rheumatic. When he suddenly moved away and I entered the car I found my chain hanging down watchless. There was no crowd, I had not noticed even a single passenger behind me, and I felt no pressure, no tug at the chain, and heard no snap of the watch bow. It was evidently the effort of an artist. I was told that it was the work of North Country thieves who, in town for the Derby week, having "worked" the races, spent their Saturday in "working" the Tube. They took my watch to the north with them, or I might have recovered it. Detectives received my complaint with not unreasonable mirth. But my days of numerous watch-stealing defences had long gone by; now they are so rare that the well-worn points of defence, invariably raised in cross-examination, so familiar to Sir Peter Edlin and Mr. Loveland, are quite novel to the judges of to-day, and enjoy a success they failed to secure in the old days.

In my very early days, when I was glad to accept dock defences with small fees, my clients whom I saved from conviction may have felt that my services deserved better recognition. Offers of an additional reward were constantly made me, sometimes in cash, sometimes in kind. I remember a tailor and a

bootmaker who pestered me for permission to take my measure for a suit of clothes and a pair of boots. A half-crazy clockmaker, who had been concerned in what is now known as the White Slave Traffic, promised me a handsome clock for my chambers. I wanted one at that time, for a burglar had entered my chambers and removed my clock, packing it up with other things in my blue bag, which was lying handy for him. But the half-crazy clockmaker's gift never got beyond the nail which he knocked in the wall to hold the clock. It may not have been his fault, for he took to creating disturbances in the Law Courts and may have been put under restraint.

But I have had no such offers for many years. Defendants not unreasonably think that what they have paid the solicitor relieves them from any obligation to me. Quite recently there was one exception. A prosperous receiver of stolen property whom I had extricated from a very difficult position, not content with what he had paid his solicitor, gave him two £1 notes and two shillings, half for himself and half for me, to buy, as he expressed it, "a bottle of wine," and the solicitor took the trouble to come to me himself to hand me my guinea. I was half-inclined to

have it framed, but thought such extravagance inconsistent with war-time economy.

But what I have always most prized are the touching letters of thanks I have received from grateful defendants and their relations. Some accompanied their thanks with declarations of their innocence, which somewhat detracted from their praise of my advocacy; others declared their determination to lead a better life in the future. One promised to pray for me every day of his life. But the truest letter was one I received from a schoolmaster charged with serious offences in relation to his schoolboys, and whose discharge I had secured at Petty Sessions. He ingenuously thanked me for the way I had "engineered" his defence; I fear his discharge was due less to his merits than to my "engineering." A wife, whose husband had pleaded guilty on my advice to a series of embezzlements and was released on his recognizances by Mr. McConnell, wrote in a devout, prayerful letter that she regarded me "as a friend sent by God in answer to our prayers." When I showed Mr. McConnell the letter he caustically observed that he did not recognize me in that character. A man wrote: "Believe me, words cannot express my gratitude to you, and it must be pleasing to you, knowing you pre-

vented an innocent man from the degradation which must have followed a conviction." One defendant of literary proclivities, besides launching out into poetry, wrote before his trial: "I know that I am safer in your hands than the noble hearts of Mafeking were in Baden Powell's," adding "Do use your rhetorical powers on my behalf to-morrow (the Queen's birthday) so that I may on the 25th say, 'Ah! if the Queen was born yesterday, Mr. Purcell was not!'" Recently one prosperous defendant, who had been able to secure the help of Mr. Marshall Hall as my leader, wrote that he did not know how to express his gratitude sufficiently to Mr. Hall for his eloquent services, and added that he much appreciated my services at the police-court and "the excellent advice" I had given throughout the case, and concluded by congratulating himself he had been able to secure the personal service of the solicitor Mr. Margetts. Such all-round gratitude from defendants in good position is by no means common; as a rule it comes from persons not in a position to pay substantial fees.

I defended, with success, a young woman tried before Mr. Fletcher on a charge of larceny from a gentleman. Her appearance and demeanor enabled me very easily to pose

her before the jury as the unhappy victim of society, additionally wronged by a baseless charge of felony. The young woman was very grateful, and as the sequel shows, was as much impressed as the jury were by the moral reflections not injudiciously indulged in by me. In the afternoon she and a man, who posed as or was her husband, called at my chambers to thank me. She would not be denied, and when my clerk introduced them she rushed up to me, and before I realized the position of affairs, she seized hold of my hand and kissed it. She told me with all the appearance of sincerity that she had made up her mind to give up her mode of life. It was a touching tribute to my sermonizing, but I fear I must have betrayed my scepticism and the absence of that pathetic concern in her reformation which had been necessary for the jury. But I never heard of her again, and her repentance may have been genuine.

I had a similar case at Brighton Quarter Sessions. The young woman was fashionably dressed and good-looking, and the jury were sympathetic. She was tried by a Deputy Recorder who had no real experience of Criminal Courts. He took no account of the susceptibility of juries to plausible argumentation in such cases. He was apparently con-

vinced that the jury would sternly repudiate my temptings and convict. So certain was he of the result that when, after his summing-up, I asked him to permit me to call the girl's mother, whom in the heat of pathetic pleading I had forgotten, he said he would hear her evidence after the verdict. I insisted. The mother went into the witness-box and prudently wept copiously. At least, she held her handkerchief to her eyes and answered in feeble monosyllabics. This was the finishing touch to the picture I had drawn. The jury said, "Not guilty."

As I left the Sessions on the way to the railway-station I saw the fair accused and her "mother" cheerfully walking away. The "mother" rushed up to me without the trace of a tear, but with a face beaming with smiles and roguery thanked me for what I had done and asked me if she had given her evidence properly. I entertain great doubt whether the woman was the accused's mother at all. But there was a sequel to this case. In the following year I was briefed to defend a man at Marlborough Street Police Court, charged with larceny. He was an old offender, but I was instructed he was leading an honest life, having turned over a new leaf on his marriage with a very respectable young woman. The

father of the young woman, apparently a well-to-do man, was anxious to impress on me how serious it would be for his newly married daughter if her husband by a long sentence were drawn back into crime. I was to urge the magistrate to deal summarily with the case, and give the accused another opportunity of pursuing his good resolutions. The respectable young woman whose influence on his marrying her had inspired the accused to resolve on leading a better life was no other than the lady of this case!

Matrimony not infrequently plays a part in such cases. A young woman failed, not for the first time, to escape a verdict of guilty from an unsympathetic jury, but I was successful in saving her from prison. She had won the real affection of a man of greater experience in crime than herself. He had undergone, after other sentences, no less a term than seven years' penal servitude, but, liberated some five years ago, he had started a small shop and was earning an honest living. He had employed the prisoner, a good-looking woman in spite of her troubles, and was so much attached to her that he was prepared to marry her. I put his proposal before Mr. Loveland, who had tried the case, with all the force and pertinacity I could, for in



those days such leniency was a novelty. I omitted to say anything about the suitor's history as really irrelevant beyond the fact that he kept a shop; to spare his feelings I asked to be allowed to refrain from putting him in the witness-box. Mr. Loveland yielded to my persuasion and formally postponed sentence until the following month, releasing the prisoner on bail to afford the expectant bridegroom time to marry her. At the expiration of the month the marriage lines were produced, a witness of the ceremony called to testify to the fact, and the happy and weeping bride was finally discharged. Scarcely twelve months later she was caught committing a precisely similar robbery. I could not on any account let the case come before Mr. Loveland. On my advice she pleaded guilty before Sir Peter Edlin. In addressing him in mitigation of punishment I told him how her husband had married her in the hope of making a good woman of her, and how, until now, she had fulfilled his best expectations, but unhappily a silly quarrel, as I was instructed, led to her leaving him and returning to her old life. She was deeply penitent; her husband thought a short term of imprisonment would complete her reform, and be a lesson to her for the future, and on her release he would take her

back again. This pretty plea, which I knew would meet with Sir Peter's approval, prevailed, and he gave her four months' imprisonment. This was not my last experience of this interesting couple.

The sincere and earnest thanks I receive from people I defend contributes in some part to the pleasure I find in the work; making people happy even for a time contributes another part and keeps keen that quick sympathy without which advocacy is lifeless.





587

[illegible]

1	2
---	---

---

001 041 3

**A** 001 041 230 2

